

NEIL ABERCROMBIE  
Governor

MIKE MCCARTNEY  
President and  
Chief Executive Officer

# Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
Website: [www.hawaii-tourism-authority.org](http://www.hawaii-tourism-authority.org)

Telephone: (808) 973-2255  
Fax: (808) 973-2253

Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**S.B. 2089, S.D.1**  
**Relating to Transient Accommodations**

House Committee on Tourism  
Monday, March 12, 2012  
9:30 a.m.  
Conference Room 213

The Hawai'i Tourism Authority (HTA) supports the intent of S.B. 2089, S.D.1, which would require a nonresident owner, who operates a transient accommodation in the nonresident owner's private residence, to employ a licensed real estate broker or salesperson, or a condominium hotel operator, and requires that person authorized to collect the rent to comply with State laws.

S.B. 2089 appears to be an attempt to ensure that nonresident owners comply with general excise tax and transient accommodations tax (TAT) laws. While many of those owners comply with the applicable state laws, the Department of Commerce and Consumer Affairs (DCCA) testified that there are a sizeable number of owners who do not comply with the laws.

HTA supports any effort that will result in increasing the collection of transient accommodations taxes and improve compliance with the provisions of the TAT law, but defers to DCCA and the Department of Taxation relating to the implementation of the provisions of the bill.

Thank you for the opportunity to offer these comments.

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

**TO THE HOUSE COMMITTEE ON TOURISM**

**TWENTY-SIXTH LEGISLATURE  
Regular Session of 2012**

**Monday, March 12, 2012  
9:30 a.m.**

**TESTIMONY ON SENATE BILL NO. 2089, S.D. 1, RELATING TO TRANSIENT  
ACCOMMODATIONS.**

**TO THE HONORABLE TOM BROWER, CHAIR,  
AND MEMBERS OF THE COMMITTEE:**

My name is Carol Ball and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony in opposition on Senate Bill No. 2089, S.D. 1, Relating to Transient Accommodations.

Portions of Senate Bill No. 2089, S.D. 1, require any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including a condominium, apartment, or townhouse, to employ a real estate broker or salesperson licensed under Chapter 467, Hawaii Revised Statutes. However, this nonresident owner is exempt from this requirement if a tax clearance and federal tax form 990 are submitted to the Commission.

This proposed section requires the Commission to expend unavailable resources to implement the proposed section. Implementation of an additional area of regulation will adversely impact the Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division, and the Hawaii Real Estate Branch's already-limited

resources during these difficult economic times and will adversely impact priorities and the Commission's program of work.

Furthermore, the proposed amendments appear to change the legislative policy set forth in the exceptions to the real estate licensing statute that an individual, i.e., a natural person and not an entity, who, as an owner of any real estate, may handle the management and sale of their own real estate without a real estate license or without retaining a real estate licensee (§467-2 (1), HRS). The impact on this exception raises potential constitutional law issues.

If this measure continues to move forward, we suggest, at least, the following amendments by deleting:

- any reference to the Commission and replacing it with the Department of Taxation as the appropriate regulatory agency.

Thank you for the opportunity to provide testimony in opposition to Senate Bill No. 2089, S.D. 1.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

KEALI'I S. LOPEZ  
DIRECTOR

PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE HOUSE COMMITTEE ON  
TOURISM

TWENTY-SIXTH STATE LEGISLATURE  
REGULAR SESSION, 2012

MONDAY, MARCH 12, 2012  
9:30 A.M.

TESTIMONY ON SENATE BILL NO. 2089 S.D.1  
RELATING TO TRANSIENT ACCOMMODATIONS

TO THE HONORABLE TOM BROWER, CHAIR,  
AND TO THE HONORABLE JAMES KUNANE TOKIOKA, VICE CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Regulated Industries Complaints Office ("RICO") of the Department of Commerce and Consumer Affairs appreciates the opportunity to testify on Senate Bill No. 2089 S.D.1, Relating To Transient Accommodations. My name is Daria Loy-Goto, RICO's Acting Complaints and Enforcement Officer. RICO offers the following comments on the bill.

Senate Bill No. 2089 S.D.1 amends Chapter 237D, Hawaii Revised Statutes, to, among other things, require a nonresident owner who operates a transient

accommodation in the owner's residence or in a condominium hotel to employ a licensed real estate broker or salesperson or condominium hotel operator, respectively. The bill also allows an exemption from the foregoing requirements for nonresident owners who submit an annual tax clearance and the federal tax form 990 to the Real Estate Commission ("Commission").

RICO notes that this Committee heard a similar bill, House Bill No. 1707, on January 30, 2012, and passed the bill out with amendments. The bill subsequently was heard and deferred by the House Committee on Finance.

RICO's comments on the bill are limited to the exemption available to nonresident owners in subsection (d) on page 5, lines 3-6, in the bill. In order to qualify for the exemption, nonresident owners must submit certain tax information to the Commission. However, the Commission does not have jurisdiction over nonresident owners who might claim the exemption and, therefore, may not be the appropriate entity to receive the documents that would result in an exemption.

Thank you for this opportunity to testify on Senate Bill No. 2089 S.D. 1. I will be happy to answer any questions that the members of the Committee may have.

March 12, 2012

**The Honorable Tom Brower, Chair**  
House Committee on Tourism  
State Capitol, Room 312  
Honolulu, Hawaii 96813

**RE: S.B. 2089, S.D.1, Relating To Transient Accommodations**

**HEARING: Monday, March 12, 2012, at 9:30 a.m.**

Aloha Chair Brower, Vice Chair Tokioka, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"); the voice of real estate in Hawai'i, and its 8,500 members. HAR **opposes** S.B. 2089, S.D.1.

For the record, HAR would like to take this opportunity to note that it was not involved with the development or introduction of S.B. 2089, S.D.1 and similar bills.

HAR's understanding is that the proponents of these bills are individual REALTORS®—HAR learned of the bills after their introduction. Part of the arguments made in support of these measures is based upon a perception that state tax and other laws are not being adhered to on a large scale. HAR supports the position that both residents and non-residents should follow applicable laws related to their property, including the submittal of appropriate taxes to the State.

HAR believes that every property owner has the right to do with their property as they wish, as long as their actions are legal. Private property rights are a fundamental American principle and a major foundation of our association. We encourage all property owners to follow the law, and would suggest that the state focus on ensuring greater compliance with existing laws (not limited to the landlord tenant code, zoning code, tax laws, etc.), rather than creating additional regulatory system.

For the foregoing reasons, rather than the proposal in S.B. 2089, S.D.1, HAR supports the language in H.B. 2078, H.D.2, and believes that it will increase accountability and serve as a means to yield a larger pool of tax compliant owners. H.B. 2078, H.D.2 requires that the transient accommodation registration number be displayed in all advertisements and solicitations, or that for non-resident owners, the contact information of a local agent be provided. This approach will accomplish the intended goals by:



**Hawai'i  
Association of  
REALTORS®**  
www.hawaiiirealtors.com

The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiirealtors.com

1. Requiring non-resident owners to register with the Department of Taxation (DoTax) for a registration number to display in their advertisements; and
2. Requiring that non-resident owners provide local agent contact information in advertisements.

HAR also supports H.B. 1706, H.D.1, with amendments, and believes that it would help with accountability of transient accommodations owned by non-residents. This bill requires non-resident owners of residential condominium units to provide the managing agent or resident manager of the condominium project with contact information of an agent located in the State who is responsible for the management of the unit. The amendments HAR would suggest to H.B. 1706 are as follows

Nonresident owners; rental agents. An owner of a residential unit who resides on a different island from that on which the unit is located or out-of-state and who rents or leases the unit to a tenant shall provide the managing agent or resident manager ~~annually~~ with the name, address, and telephone number of the rental agent located in the State who is responsible for the management of the unit upon entering into a management agreement. If there are any changes in the name, address, and telephone number of the rental agent, the owner shall notify the managing agent or resident manager.

Mahalo for the opportunity to testify.

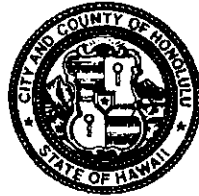
REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.



DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.gov/dpp](http://www.honolulu.gov/dpp) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

March 12, 2012

The Honorable Tom Brower, Chair  
and Members of the Committee on Tourism  
State House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Brower and Members:

Subject: Senate Bill No. 2089, SD1  
Relating to Transient Accommodations

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2089, SD1, which requires a nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit or townhouse, to employ a property manager approved by the Real Estate Commission. The bill further requires the counties to provide relevant information about owners of permitted transient accommodation.

The DPP is responsible for the administration of the Nonconforming Use Certificates (NUC), which are issued to qualified applicants to allow for the conduct of transient vacation rental operations. Without the NUC, the use is prohibited in all zoning districts, except hotel resort. However, enforcement efforts against illegal vacation rental operations have been difficult, partly because many property owners, who are conducting vacation rental operations illegally, are nonresidents of Oahu. This makes it difficult for our inspectors to contact the homeowner. For this reason, the proposals in this bill will provide us two immediate benefits: 1) There would be a designated contact person, who should be more familiar with the City's Land Use Ordinance and the restrictions for conducting the vacation rental operations; and 2) The licensed real estate brokers will be subject to the regulatory provisions enforced by the Real Estate Commission and the State Department of Commerce and Consumer Affairs, Regulated Industry Complaints Office. This bill will serve as a catalyst for enhanced enforcement efforts between State and City agencies.

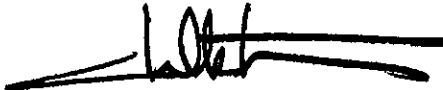


The Honorable Tom Brower, Chair  
and Members of the Committee on Tourism  
State House of Representatives  
Re: Senate Bill No. 2089, SD1  
March 12, 2012  
Page 2

Regarding the provision of the proposed bill that the counties provide the State Department of Taxation with relevant owner information for every transient accommodation permitted in their respective county by December 31 of each year, the DPP currently provides a listing of all permitted transient accommodations at the completion of the permit renewal cycle. This information is also available at any time by selecting the following link on our webpage: <http://honolulu.dpp.org/HotIssues/NUCReport.pdf>.

Please adopt Senate Bill No. 2089, SD1. Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', written over a horizontal line.

David K. Tanoue, Director  
Department of Planning and Permitting

DKT:jmf

sb2089sd1-TransientAccomm-mf.doc



March 9, 2012

Via Email [TOUTestimony@capitol.hawaii.gov](mailto:TOUTestimony@capitol.hawaii.gov)  
Committee on Tourism  
Representative Tom Brower, Chair  
Representative James Kunane Tokioka, Vice Chair  
415 South Beretania Street, Room 615  
Honolulu, Hawaii 96813

RE: SB2089, SD1 relating to Transient Accommodations

Dear Representative Brower and Representative Tokioka:

My name is Kelvin Bloom. I am the Manager and President of Aston Hotels & Resorts, LLC, which operates resort rental programs in 18 condominium projects in the State of Hawaii. I am writing regarding SB2089, SD1 which requires nonresident owners who operate a transient accommodation to employ a licensed real estate broker, salesperson or condominium hotel operator. I support SB2089, SD1 with certain amendments.

SB2089, SD1 applies to any nonresident owner who operates a transient accommodation "located in the nonresident owner's private residence." I believe this should be changed to "a transient accommodation in the State" because if the owner is a nonresident, clearly the owner does not reside in the State and the unit in which the accommodations is provided is not the owner's "residence."

Further, the bill should be changed to require that the nonresident owner employ either a real estate broker, salesperson or condominium hotel operator licensed under chapter 467 absent the specific proviso specifying that the nonresident owner of a unit in a condominium hotel employ a condominium hotel operator. Section 467-30 specifically states that the registration and fidelity bond requirements set forth in section 467-30 do not apply to active real estate brokers conducting condominium hotel activity. As an active real estate broker, Aston Hotels & Resorts is not required to also register as a condominium hotel operator.

Accordingly, I support SB2089, SD1 with the above modifications.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelvin Bloom", is written over the printed name.

Kelvin Bloom  
Manager and President

Aloha,

We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws. However, we request you **oppose the passage of SB2089 SD1 and vote no to allow for further discussion and analysis.**

We appreciate that the Amended Bill has included a provision for exemption by obtaining a "tax clearance" from the Tax Department to be transmitted to the real estate commission. The Bill, however, does not establish what the criteria would be for granting the 'tax clearance' or the timeliness of the Tax Department to provide the tax exemption. We fear the Tax Department will be overly burdened with requests causing delays which would result in noncompliance. There are times when the Tax Department takes up to two months to provide a tax identification number, so one can reasonably expect there would be many delays in obtaining a "tax clearance." Additionally, we do not know how we would comply with the requirement of Federal Form 990 being transmitted to the Real Estate Commission. Form 990 is for Return of Organization Exempt From Income Tax. The annual requirement may prove to be an obstacle to compliance that burdens only nonresident owners.

If the Legislature is inclined to pass this Bill, we request that the resident owners also be required to comply as there does not seem to be an inherent justification for only burdening nonresident owners with all of the requirements in the Bill. As the Attorney General suggested, "under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents. We would therefore request that all who provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill SB2089 HD1 is based on the premise that nonresident owners do not comply with tax requirements. In the absence of new studies as the Attorney General suggests, it is reasonable to rely upon the last studies performed by the Hawaii Tourism Authority. In 2007 the Tax Department in Testimony stated:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."
2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."
3. "The Department does not believe there is substantial non-compliance with tax obligations." Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island.

We, as nonresident owners, seek to comply with the laws. We offer the following suggestions to enhance compliance.

Educate by a Notice. It should contain language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.

1. Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice.
2. Every property owner receives a property tax bills. The Notice should be enclosed in the mailing of the tax bills. The result would be **EVERY OWNER WOULD RECEIVE NOTICE OF REQUIRED GE AND TA TAX COMPLIANCE AND STATE TAX RETURN.** There would not be one property owner in the State of Hawaii who did not receive the information that they must comply if they rent transient accommodations. In conjunction with a higher level of educational outreach, the State of Hawaii may receive a substantial amount of back due taxes by offering an amnesty program to all noncompliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

Kathie West

**goWEST! Travel** ☹

Need help with travel insurance? I can help!

530 273-3003

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Support

Testifier will be present: No

Submitted by:

Organization:

E-mail: [prentissc001@hawaii.rr.com](mailto:prentissc001@hawaii.rr.com)

Submitted on: 3/9/2012

Comments:

Aloha Chair and members. My name is Charles Prentiss chairperson of the Kailua Neighborhood Board (KNB) testifying on behalf of the Board. The KNB has been on record for sometime recommending increased enforcement for TVU rentals. This Bill SB2089 is an important step in that direction, as well as an effective way to improve tax collections from tourist activities. Those testifying in opposition to this bill are the people who would be regulated by it. I hope we have learned something from the lack of regulation on Wall Street.



75-5737 Kuakini Hwy. Suite 208  
Kailua-Kona, HI 96740  
Phone: 329-1758 Fax: 329-8564  
www.Kona-Kohala.com info@kona-kohala.com

Testimony to the House Committees on Tourism and International Affairs  
Monday, March 12, 2012 at 9:30 a.m.  
Conference Room 312  
State Capitol  
415 South Beretania Street

RE: SENATE BILL 2089 SD1 - Relating to Transient Accommodations

Dear Chairs Brower and Awana, Vice Chairs Tokioka and Hashem and Members of the Committee,

My name is Vivian Landrum, and I am the President/CEO of the Kona-Kohala Chamber of Commerce (KKCC). KKCC represents over 520 business members and is the leading business advocacy organization on the west side of Hawai'i Island. KKCC also actively works to enhance the environment, unique lifestyle and quality of life in West Hawai'i for both residents and visitors alike.

The Kona-Kohala Chamber of Commerce supports SB 2089 SD1 to require nonresident owners to utilize the services of a real estate property manager licensed under HRS 467.

As a Chamber of Commerce, we are frequently the recipient of letters, emails and phone calls from visitors to our Island. Many are sharing their love of our destination, however some are registering complaints. I can testify we have received correspondence from some who have rented condominiums directly from owners via the internet and were not satisfied with their accommodations. They were unable to receive any satisfaction from the owners and had nowhere to turn. Needless to say, their experience resulted in a desire never to return.

Not only would SB 2089 SD1 provide an avenue for the collection of the required transient accommodation tax, but would also provide these visitors with a reliable on-island connection to ensure their stay is the positive experience it should be. For these reasons I urge you to support this bill.

Mahalo for the opportunity to submit testimony.

Sincerely,

Vivian Landrum  
President/CEO

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ronald Bridges

Organization: Bridges to Paradise Rentals Inc.

E-mail: [bridgestoparadise@shaw.ca](mailto:bridgestoparadise@shaw.ca)

Submitted on: 3/9/2012

Comments:

Dear House Representatives;

My name is Ronald Bridges/President of Bridges to Paradise Rentals Inc. and are a non-resident vacation rental company/owner. As a vacation rental company we provide accommodations for tourists that wish to visit this lovely state. Bill SB 2089 SD1 which is to say the least will cripple the tourist industry in Hawaii. If we are forced to use a real estate salesperson for the collection of fees and taxes and then file same on our behalf for a fee of 25% - 40% of the total fee. This would equate to a 25% - 40% increase in rental rates for the tourists. We must remember that the cost of airfare to Hawaii is already stopping some would be vacationers, and the ones that are coming cannot afford a 25% - 40% increase in condo rates. This bill brings some questions forward such as, why do the fees go to a real estate salesperson, should they not go to an accountant if they are to go to anyone other than the owner. We have owned the condo for 4 years and we have always paid our taxes, why are we being punished if there are some owners who have not. Or is this bill just to give the real estate people their own cash cow because the real estate market is slow. There are laws in place to punish those who evade taxes, why make new laws to punish the law abiding tax payers. Speeding is a criminal offence but we don't force all to sell their cars and ride the bus. No, we enforce the law and punish the offenders.

It is my opinion that if this bill passes The State of Hawaii will join the list of states with a collapsed real estate market. This will be due to the fact that our business cannot survive on a 40% increase to our customers. We are in a recession, people are hurting, so they save all their pennies for the vacation of a life time and Hawaii wants to tell them, I am sorry but the cost of a vacation in Hawaii has gone up 40% maybe you should think Mexico. Let me clarify my opinion on the possible real estate collapse. If this bill passes we will be forced to sell and I have talked to many other owners and they have also said they will have to sell. If we all have to list our properties for sale, there will be a flood of properties on the market which in turn will relate to the real estate values falling. When real estate values fall the property tax also goes down because the property tax is based on property values. Ultimately there will be less income for the state. Once we place our property for sale, we will take it off the rental market, which means one less place to stay for a tourist, which will result in less tourist dollars in Hawaii's economy. I will change the category of our property at the property tax office from Vacation rental to owner occupy, which means my \$2000 yearly tax bill will be down to a couple of hundred dollars, which results in a loss of \$1800 to the tax department. I employ a couple of cleaners and a general contractor, well I will not be requiring their services anymore, so we have now created unemployment. Last year I paid over

\$3000 in General Excise Tax and Transient Accommodation Tax, which will be gone from the state tax department. We are only one owner with one condo and I am sure you can now imagine what the impact to the state will be when thousands of non-resident owners say Hawaii doesn't want us to do business there, maybe we should think of helping on the main land. The overall effect will be huge.

Lastly this bill is unconstitutional. It discriminates between non-residents and residents, as this bill is only attacking the non-resident owners. We all pay the same taxes but we are being singled out. I get the feeling that the state can't trust you unless you live here full time.

We invested in Hawaii because we love the state and we never want to see it change. We wanted to help the economy by supporting the tourist industry. The tourist industry is what drives this state and now with this bill they are going to drive it into the ground and collapse tourism. I have talked to some diehards and they say it can never happen in Paradise. Well did the states that are in trouble now know what was in store for them...No I don't think so or they would have tried to stop it. This is Hawaii's chance to step forward and be a leader and protect the tourist industry and the non-resident investors who by investing showed confidence in the state. We are non-resident investors and we are here because there are not enough residents to purchase all this property.

We had our property handled by a management firm and this is what we experienced. The management company would purchase items and tell us they were for my condo when we did an inventory the purchased items were not there, when we questioned where they were we were told they must have been stolen again so I have to purchase more. Later we discovered the management company would purchase items and place them in someone else's condo. We were paying for cleaning to this management company and all we did was receive complaints about the cleaning. When cleaners would be sent back in, we would be billed again. This is why we cannot trust these people. If your own business was mismanaged as mine was, I am sure you would have fired them too. There was a friend that rented his condo through a management company and he was talking to a fellow resident when he was told that his condo was renting very well. When he contacted the management company they told him it was not being rented. He flew to Hawaii and discovered someone in his condo. The people said they had rented from the company, when he called the company they stated they had not rented the unit. The management company was renting the unit and keeping the money and not filing the taxes. These are the type of people you are wanting me to turn our business over too.

We are asking for your support in stopping this bill and saving Hawaii's tourism and ultimately saving Hawaii. Let's start enforcing the laws that are already there rather than making new ones. Mahalo

Yours Respectfully

Ronald Bridges/President

Bridges to Paradise Rentals Inc.

Maui

[bridgestoparadise@shaw.ca](mailto:bridgestoparadise@shaw.ca)



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim & Sue Keithahn

Organization: Going Maui Vacation Rentals

E-mail: [GoingMaui@aol.com](mailto:GoingMaui@aol.com)

Submitted on: 3/9/2012

Comments:

Oppose SD2089 SD1

As a Maui property owner for over 25 years, I strongly oppose SD2089 SD1 for the following reasons:

- 1) Unconstitutional – discriminates between residents and non-residents for no valid reason. This is supported by the Hawaii Attorney General.
- 2) Is there a problem? No unbiased study has been done to determine that there even is a major problem with collection of GET and TAT taxes from off-island owners, or that off-island owners are offending any more than on-island owners. In fact, the last audit by the tax department, done in 2007, determined that “The Department does not believe there is substantial non-compliance with tax obligations.” The “need” is based only on hearsay provided by real estate agents who are the only ones who have anything to gain by passage of this bill.
- 3) This bill will be economic disaster to the state of Hawaii in terms of lost visitors because of the need for higher rental rates, lost free advertising as by-owner advertising listings will disappear, property values will decrease along with property tax revenue, as owners cannot afford to keep their rental properties after they pay rental agents, many small cleaning and maintenance businesses will be out of business.
- 4) The “OPT OUT” provision has not been defined. How will the Tax Department be able to handle thousands of applications to opt out in a timely manner? What will be the qualifications for opting out? Will there be a 2-3 year backlog in getting approvals, much like licensing for TVRs on Maui? Until this process is thoroughly defined, it is a meaningless provision

We urge you to VOTE NO on this ill-conceived and un-thought-out bill until audits can be done to determine the extent of the problem, vacation rental owners can be educated as to the legal tax requirements, and any proposed licensing or registration processes can be thoroughly defined and thought through.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose

Testifier will be present: No

Submitted by: Carl Hu

Organization: Hu-Smith LLC

E-mail: [carlhu@hufamily.com](mailto:carlhu@hufamily.com)

Submitted on: 3/9/2012

Comments:

As a non-resident transient accommodation property owner who last year generated and paid over \$15,000 in GET and TAT tax revenue for the state of HI, I strongly urge you to vote NO on SB2089.

Although supporters of this bill argue that it will crack down on non-resident property owners and generate more tax income, the truth is that non-residents transient owners are actually more responsible about collecting and paying taxes than resident owners and the net impact of this bill will be to actually reduce the net taxes collected as thousands of owners are forced to cease operation and sell their properties since they can no longer operate profitably. This will result in lower property values, an increase in foreclosures, and a decrease in overall tourism revenues and taxes. Only 2 groups stand to profit by this bill - the HI realtor and hotel lobbies and that this the reason they have invested so much money and effort into this bill.

We employ a local property manager to manage our property and they have done an excellent job for us in ensuring that our property is well maintained, booked with high occupancy rates, and all taxes are collected. Because our property is part of a condo-hotel, under SB2089 we would be forced to leave our property manager, who is a licensed realtor but not a Condo-Hotel operator, who charges a 25% commission, and instead be forced to use the hotel's own management company who charges 50%. As a result, we would no longer be able to operate profitably and would be forced to sell our property rather than take a yearly operation loss in excess of \$20,000. We would also be forced to accept their booking terms and lower occupancy rates which would further exacerbate our finances. I'm sure I'm just one of thousands of other non-resident property owners who would be put into this untenable position by SB2089. I think you can see the net result of this will be many more properties put up on the market at a time that the market is still recovering, more foreclosures, lower property values, and lower tax revenues. This will create a serious obstacle to the economic recovery of HI from the recent recession.

This bill has been heavily lobbied by some of the largest condo-hotel operator companies in the state since they would state to gain the most by forcing out responsible small business property management companies as well as individuals who self-manage their properties. I urge you to not be swayed by their money and instead do what is FAIR and also what is in the best long term economic interest of HI state by not taking drastic measures to drive off non-resident property owners who generate substantial benefit to the state but instead focus on compliance with the existing tax laws which have been proven to be effective. In the spirit of aloha for all who are part of the greater HI community, please vote NO on SB2089.

Carl Hu

Hu-Smith LLC

3856 134th Ave NE

Bellevue, WA 98005

[carlhu@hufamily.com](mailto:carlhu@hufamily.com)

# ShallWeMaui.com Vacation Rentals

*Affordable Luxury in Beautiful Wailea*

Grand Champions Villas #138

Dear Committee

I am writing to you regarding SB2089.

I urge you to vote against this initiative. I am an Owner at the Grand Champions on Maui. Since I bought this property, our country as a whole has gone through some of the worst economic times we have seen since the Great Depression.

My personal situation has changed to the extent that if I had to hire a full time management company and pay them 25-40% of my collected rental fees, I would probably end up losing my property to foreclosure. There is just no way I could subsidize the loss of rents that would inevitably follow the passage of this legislation. Property values on our islands have already been hurt severely by the popping of the real estate bubble. Please don't vote for a bill which will so severely hurt owners, such as myself, who are already struggling to keep our property heads above water.

Property values are finally beginning to stabilize. Passage of this bill would probably create a condominium crater, that might take years to dig out of.

Also, since this bill points only at out of state owners, I feel it is prejudicial and probably illegal. Why create a law that will only end up in the Courts. I have no doubt it would be found unconstitutional.

In addition, I would like to point out that I currently pay thousands of dollars annually in tax for each guest who stays with me, as required. We have never had a complaint, and have many repeating guests, many of whom have become friends over the past years. Also, we have a team of professionals who would be put out of work if such legislation passes, which would also be to the detriment of Maui's overall citizenry.

If you or your staff would like to discuss this further, call on me anytime, my personal cell number is listed below.

Thank you for considering all the sides to this issue and thank you for your service to the State of Hawaii.

Much Aloha,  
Charles and Ikuyo Cannon

Charles and Ikuyo Cannon - Owners

Email: [Charlie@shallwemaui.com](mailto:Charlie@shallwemaui.com); [Ikuyo@shallwemaui.com](mailto:Ikuyo@shallwemaui.com)

Phone: Charlie - (503) 260-0607; Ikuyo - (503) 318-5598

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marilyn Hybiske

Organization: **Sunset Shores Maui**

E-mail: [marilyn@sunsetshoresmaui.com](mailto:marilyn@sunsetshoresmaui.com)

Submitted on: 3/9/2012

Comments:

I am writing to voice my OPPOSITION to SB2089 HD1 and any other bills that are being considered by the State of Hawaii which will prohibit owners of rental properties to continue to manage and rent their properties on their own.

I formerly used a management company to rent my condo. While it was convenient and less work for me, I was dissatisfied by the low rental rates that they insisted upon, the 30% management fee, their lack of appropriate advertising, and my occupancy rate. Their maid service wasn't as good as the one I use and my condo was "lost" among the condos they rented. My guests had no personal contact with me, the owner, and they were not given personalized service. If rental and occupancy rates go down, so will our property values. All of this will hurt the Hawaiian economy.

Renting on my own, I have raised my rental rates by 25%, eliminated the 30% management fee, improved my advertising choices, and use a much more professional maid service. Consequently my occupancy rate has gone way up. My guests like to deal with me, the owner, as I can provide individualized suggestions to make their stay on Maui the best it can be. I have many reviews supporting this on my VRBO listing (VRBO.com/215504). I have an on-island contact person for guests to contact in case of emergencies or questions.

Renting on my own is bringing in more money to the State via the GE/TA taxes that I pay and it allows me to be a member of the HVCB and a good ambassador for Maui. ---I see it as a win-win situation for all of us. Taking this choice away from me will reduce my income, which will reduce the amount of GE/TA taxes that I pay, reduce the personalized "Aloha" experience that I provide to my guests, reduce the amount of dollars that I am now able to spend locally on furnishings and amenities. In addition, I firmly believe that it takes away my constitutional rights to use my property as I wish. And it is just so un-Hawaiian!

The internet has changed the way people are finding rentals. Travel agents are becoming a thing of the past. Forcing me to use a management company to do something that I can do better just isn't good business. People are making their own arrangements for travel. Renting direct from an owner is preferred by many people and done throughout the country and the world. I can't fathom why the State of Hawaii feels the need to change that. The only people to come out ahead on this are the realtors and professional property management companies. It is bad for tourism, property values, and how Hawaii is perceived by others.

I paid over \$10,000 last year in GE & TA taxes. The State received every dollar to which they were entitled. I have no problem paying the taxes owed, but

I DO have a problem having to pay someone else to manage MY property and make decisions as to what rate to charge and who to rent to. I am a good ambassador of Aloha for Maui. If this bill passes, it will have a great impact on the many people who rent on their own, offer a good product, and pay their fair share of taxes. If the State feels that they are not receiving the taxes they are due, then they should use the policies that are available to collect from those who are being unethical. Don't punish me and take away my rights!

I suggest better informing property owners of the laws concerning vacation rentals and better enforcement. I would even support giving those who abide by the rules some sort of badge or official seal with our tax ID# to add to our websites so that it is apparent that we are following the rules. It might even be "good" for our image. and increase business.

As a non resident (not by choice, but by circumstance) I am not even eligible to vote on this legislation which will direct only me as a non-resident. This is unconstitutional and unfair. Please listen to reason and OPPOSE this legislation.

Aloha and Mahalo,  
Marilyn Hybiske

Sunset Shores Maui  
Direct Oceanfront 3-BR Vacation Condo  
- - - - - [www.SunsetShoresMaui.com](http://www.SunsetShoresMaui.com)  
[info@SunsetShoresMaui.com](mailto:info@SunsetShoresMaui.com) Marilyn Hybiske P.O. Box 546, Sonoma CA 95476

1990 Oak Bay Avenue, Victoria, BC, Canada V8R 1E2  
T 250-598-2966 F 250-598-2967 T/F 1-888-274-6779  
E info@vshl.ca www.vshl.ca



Robert Emslie

250-598-2966 or [bob@vshl.ca](mailto:bob@vshl.ca)

## **OPPOSED TO SB2089**

### **SB2089**

We understand the motivation of the legislature to capture the TA & GET from owners who don't pay on their short term rentals, but this really discriminates against non Maui residents, especially as Maui owners might be as guilty of non-payment as those off island.

This also penalizes off island owners who pay their taxes by forcing them to use a realtor and pay the high fees they charge owners - as much as 35%. We have our unit under a management company charging 22% but still expect us to remit the tax and we do. Many vacation rental owners use VRBO (Vacation Rentals By Owner) or Home Away, and their cleaner oversees the property. This allows them to keep their prices low and still pay their mortgage and owners fees. Most of these owners are part time residents of Maui, spending several months a year here.

With the economic times as they are every rental is a benefit to the Hawaiian economy. Renters spend money in shops, on activities and keeping the local residents employed! We as an owner use local trades, cleaners to help us keep our place in good order and safe. Surely the legislature can come up with a better plan, and one that doesn't discriminate against non-residents who are also good tax paying citizens. It seems the only ones in favor are large resort companies and management companies. If this is passed you will force more people to sell and take their money elsewhere and will only hurt the local people of Hawaii. There must be a better solution for us honest tax paying individuals.

Sincerely

Robert Emslie

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Support

Testifier will be present: No

Submitted by: Pamela Bello

Organization: Individual

E-mail: [pam@bellomauui.com](mailto:pam@bellomauui.com)

Submitted on: 3/9/2012

Comments:

RE: Testimony Supporting SB 2089

I am providing testimony in support of SB 2089.

We are all aware of the present economic circumstances our State presently finds itself in. I wanted to highlight a very significant concern of real estate professionals throughout Hawaii, as well as a major opportunity for the State to recover major tax revenues it has clear rights to, which it is presently losing every day. The loss of these tax revenues can be avoided in a very straight forward manner as described in SB 2089.

Our State's economy runs on tourism. One aspect of this from a State revenue perspective is tax, both TAT as well as the Excise, for visitors lodging. Our lodging industry is a mature and professional industry, appropriately regulated via licensees of the State, serving our State's guests well, while insuring appropriate tax monies are provided to the State on all visitor stays.

With the advent of the internet, there has been an explosion of Rental By Owner (RBO) activities occurring outside the State via the internet. Owners who reside primarily on the mainland are renting their Hawaii second homes over the internet, without the appropriate on-island representation for, or management of, this rental activity, in direct violation of HRS 521-43(f).

These mainland owners may or may not charge Hawaii Tax on their reservations, and if they do, there is no way to know if some or all of these collected tax revenues are ever provided to the State of Hawaii. This transaction takes place outside of Hawaii invisible to Hawaii tax authorities. The potential loss of TAT and Excise tax revenues from this illicit activity is in the tens of millions of dollars annually, and increases daily.

These tax collected monies, as well as guest rental monies, are intended by regulation to be held in FDIC insured bank Trust accounts in the State of Hawaii where they can be accounted for by state authorities, and consumer's/visitor's interests can be protected. Monies collected by mainland owners of Hawaii properties can be deposited to the property owner's mainland checking account, commingled with their personal funds, and where Hawaii has no means to monitor or protect its tax rights.

Tourism being one of our State's core industries, it is in our vested interest to insure that we do everything we can to insure a positive guest experience, as well as the State capturing as much of the tax revenue that it is entitled to.

We have a whole industry of lodging and real estate companies here in Hawaii that abide by State regulations, and bear the costs of following these rules. These Hawaii companies are being placed in an increasing difficult and noncompetitive position due to the magnitude of the problem. Where not long ago, this RBO activity was a nuisance, it is now approaching 40 to 50% of all condo rental units in Hawaii. Persons who don't abide by laws and regulations, don't bear the costs attributable to them, and can offer goods & services at significant discounts to Hawaii businesses following regulations, and who pay salaries and employee costs.

Lastly, illegal vacation rental activity in locations where this activity should not occur due to zoning, deed restriction, or ordinance is a major issue in several of the counties. Professional property management firms are highly unlikely to involve themselves with properties where rental activity is not permitted. The bulk of the rental activities occurring in locations where short term rentals are not permitted is being conducted via owner direct bookings through the internet. Addressing illegal RBO rental activity, would not only have the beneficial impacts upon Hawaii and its tax revenue short fall as discussed previously, it would significantly reduce this very contentious and emotional issue for Kauai, Oahu and Maui counties.

I would strongly request that for all the good reasons cited above that SB 2089 be passed by this committee.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Support

Testifier will be present: No

Submitted by: Tiffany Iiga

Organization: Individual

E-mail: [tiffany.iiga@gmail.com](mailto:tiffany.iiga@gmail.com)

Submitted on: 3/9/2012

Comments:

The intention of this bill is a great measure and worth our state's attention. I hope to see revisions that will clearly continue to protect consumers, otherwise this bill is just further pushing the cost of rental properties.



March 9, 2012

**RE: Testimony Supporting Senant Bill 2089**

I am providing testimony in support of **SB 2089**.

Managing vacation rentals is harder than anyone thinks. Issuing Keys, scheduling cleaning & maintenance, driving from property to property arranging check-ins and check-outs, collecting rental income, taxes, and security deposits are just a portion of what it takes to manage a property effectively.

Guests to Hawaii deserve the best experiences possible, especially if the owner is not on-island to provide the necessary support to manage their transient rental. The State of Hawaii needs these guests to have exceptional experiences here so they continue to return to the islands and support our local economies. The best ways to ensure this happens is to have a licensed agent, bound by HRS 467 manage the rentals owned by off-island persons.

Passing SB 2089 will not only help in raising the standards for guests to the islands who enjoy our vacation rentals, it will also protect their funds as all monies paid to licensed agents are placed in the manager's Client Trust Account. Further, having a property manager collect, hold, and disperse the funds means that these rental incomes become visible to the State.

When out-of-state owners rent their properties via the internet chances are that they are not putting the funds in a secure trust account, and that they are not reporting the transaction to the State, making the tax authorities effectively blind to this revenue. This is not a position a State Tax agency can allow itself to be in.

Property managers here on Oahu and throughout the state have stiff competition. We work on ever decreasing margins to remain competitive. I can attest to the fact that on Oahu most of us work on just a 15-20% commission structure. Those who charge more tend to be in the luxury market where more services are offered, or in places where the cost to do business is much higher.

Licensed property managers offer excellent value and service not only to our owners that we represent, but also to the guests that come to visit. When owners seek to rent their property on their own, without charging taxes, we can't compete, and it hurts everyone: The State, the small management companies, and potentially the guest who books with an off island owner.

From a tax perspective, the Bill is not advocating increasing a tax, or levying a tax against one person and not another, it permits the State of Hawaii to insure that RBO owners pay taxes on their rental revenues just like everyone else by insuring all of their rental revenues are recorded by a trusted third party, a licensed real estate property manager.

Mahalo,  
Kristin Counter

PTestimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: **Support**

Testifier will be present: No

Submitted by: William Rees

Organization: Individual

E-mail: bill.rees@outrigger.com

Submitted on: 3/9/2012

lease vote "yes" on SB 2089 SD 1 on Monday, March 12 during the meeting of the House Committee on Tourism.

Aside from the issue of being certain taxes are paid, this bill would give customers of off-island owners a local contact person. As someone who manages the Outrigger rental program at the Maui Eldorado in Kaanapali, I can tell you that, more often than not, customers renting from owners who have no local contact have no way to get a resolution to their problems or questions. Every day, I see how this lack of service has a very negative impact on those customers' experiences and it reflects badly on the Maui Eldorado, Maui and Hawaii.

Thank you for your ongoing support of Hawaii's legitimate visitor industry.

Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Miller Abel  
Organization: Individual  
E-mail: [Miller@MillerAbel.com](mailto:Miller@MillerAbel.com)

Comments: I oppose SB2089.

The proposed requirements that non-resident owners must utilize a real-estate broker or salesperson when renting their own property to tenants is not consistent with Hawaii State law and is a violation of the Equal Protection clause of the U.S. Constitution.

Property owners may sell their homes without employing a real-estate professional. Requiring an owner to employ a real-estate professional to rent their property serves no useful purpose and creates an economic inefficiency in a business that already runs on very thin margins. Property managers typically charge from 10%-50% of the rental costs as a commission. If SB2089 is adopted, these costs will have to be passed on to customers. But neither the owner nor the customer receives any benefit from this additional cost and it will create pressure on the transient vacation rental business that is already struggling through the worst recession in 70 years. Business failure will be the direct result of SB2089. Without these business, no additional taxes will be collected and in fact existing tax revenue will be lost as lawful operators are forced to exit this business as economically infeasible.

SB2089 and HB1707 and HB1706 and related legislation were generated by real-estate special interests in an attempt to secure an oligopoly on rental management that serves only their narrow business interests.

SB2089 will lead to massive new numbers of foreclosure as owners, presently able to make their mortgage payments through transient rental income, will no longer be able to make ends meet. They will left with no recourse but to abandon their properties and walk away. This will happen by the thousands. It will be impossible to resell these vacation rentals since no non-resident buyer will accept the new economics that requires a confiscatory commission be paid to a real-estate professional.

Hawaii State law already contains sufficient regulatory protection to ensure that only properly zoned homes are rented to transient tenants, that an on-island contact is available to serve these transient tenants during their tenancy, and that taxes are collected and paid. Those few individuals that do not abide by these existing laws will not be compelled by the new regulations in SB2089.

The State of Hawaii does not have the resources to scour the billions of pages on the Internet to look for non-compliant listings or to verify compliance with the requirements of this legislation.

The State of Hawaii has a frequent record of tax processing backlog that has repeatedly caused erroneous notices of late tax filings to be sent to owners who in fact filed on time. The requirement for the State to issue annual waivers to owners is not workable as written.

Finally, SB2089 violates the Equal Protection clause of the U.S. Constitution by applying the law unevenly, based solely on the declared permanent residence address of lawful property owners.

SB2089 must be rejected.

**From:** PATRICIA ACKERMAN [mailto:plackerman@shaw.ca]

**Sent:** Friday, March 09, 2012 4:45 PM

**To:** TOUTestimony

**Subject:** Opposed Bill # SB2089

I am an owner of a Maui condo and am opposed to Bill 2089 SD1

Tourism Committee March 12th 9:30 am,

Patricia Ackerman

54 Silverado Range Hts SW

Calgary AB Canada T2X0B5

Sincerely,

Patricia Ackerman

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: SL Adams  
Organization: Individual  
E-mail: [maprows@aol.com](mailto:maprows@aol.com)  
Submitted on: 3/9/2012

Comments:

RE: SB 2089 SD1

Aloha~

I am writing to express my opinion the SB 2089 SD1 is not good for Hawaii and I OPPOSE this bill and it should be stopped immediately!

THIS BILL IS ECONOMIC SUICIDE FOR THE STATE OF HAWAII!

Tourism is down. Gas prices and airfare are escalating to the extent...THERE WILL BE NO VISITORS if this keeps up!

Housing will collapse as residents will have NO WORK and property owners will be forced into Foreclosure!

Is this what you want to vote for~ to watch the entire system collapse?????

In watching the legislators discuss HB 1709~ it was very clear this similar bill had not been thought out, nor are there any valid reason for passing it. The assumption that owners do not pay taxes if false~ so the ONLY BASIS for this bill is to provide more money for a load of greedy management companies who have not worked so hard and want a bigger slice of the pie at the cost of the entire State of Hawaii.

Further~ this bill is discriminatory in nature and will be riddled with opposition and who will benefit~ the attorneys.

The testimony provided from management companies has been biased and will affect the lives of thousands of Hawaii property owners and residents alike.

Think~ of all the small companies THIS WILL PUT OUT OF BUSINESS!!! This is not the way to increase the quality of lives in Hawaii.

Why would anyone buy property in Hawaii if the state DICTATES who you must give it to so THEY can make money off your property.

Many owners have had to WITHDRAW from management companies due to the common practice of having nonpaying guests occupy their condos without the owners knowing and the taxes WERE NEVER COLLECTED.

Homeowners want their guests to return to the islands, which benefits everyone in the state of Hawaii. We do NOT want to be forced into the services of management companies who are only interested in PROFIT for themselves and care nothing about the spirit of Aloha.

Please vote NO on SB 2089 SD1!!!

Mahalo,  
SL Adams

**From:** Trish Alexander [mailto:taalexander03@yahoo.com]  
**Sent:** Friday, March 09, 2012 8:26 PM  
**To:** TOUTestimony  
**Subject:** Opposing SB2089 SD1 Amended

This is testimony opposing SB2089 SD1, for the Tourism Committee Meeting,

March 12<sup>th</sup> 9:30 am

I am a homeowner who owns a 1 bedroom condo in Kihei, HI, which I rent through VRBO because it became too expensive to rent through a property manager. Not only was the property manager charging me 21%, but they also charged registration and advertising fees on top of that. They were not able to rent the condo to capacity, and therefore I could not afford to pay the monthly mortgage and condo fees on the rental income I was receiving from them. I had to take over the management of the rental process myself in order to keep the condo, and I now pay them a reduced fee to serve as on-site back up for me.

I regularly pay my GE and TA taxes and am making more money for the state of Hawaii than when the property manager was renting my condo. I believe that SB-2089 SD1 is illegal and unconstitutional and is not in the best interests of homeowners, visitors, or the state of Hawaii. If passed, I believe that SB-2089 SD1 will result in the following:

1. cost the state of Hawaii millions of dollars in lost GE and TA taxes,
2. have a devastating effect on tourism which is just starting to come back,
3. negatively affect owners like myself who would not be able to afford to keep their properties, thus flooding the market with additional foreclosures.

I strongly support homeowners paying GE and TA taxes – but I am opposed to mandating that property managers or realtors must be inserted into the equation as middlemen. They would be the only ones to benefit from this law, while everyone else loses.

Instead, Hawaii should create a public awareness campaign about vacation rentals and taxes and laws that are required to be followed. Vacation rental owners who do not comply should be heavily fined, rather than punishing the vast majority of homeowners who pay their taxes and abide by the current laws.

Sincerely,

Patricia Alexander (homeowner)

2777 S. Kihei Rd. B-107

Kihei, HI 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Richard W Antoniuk

Organization: Individual

E-mail: [richardantoniuk@yahoo.ca](mailto:richardantoniuk@yahoo.ca)

Submitted on: 3/9/2012

Comments:

I have been renting condos. in Hawaii for many years from owners and have been very happy with how I have been treated. Tourists help the economy of Hawaii and not realtors. We have been tapped for room taxes ever increasing, car rental taxes more than doubling, airport facility taxes on cars, road taxes on rentals, taxes on airline tickets, baggage fees, gasoline hikes and you know the story about these costs seem endless. It is getting increasingly harder to visit your state and passing this bill will only add to the burden. I do not think you can milk the visitor any further especially when the economy looks like it might be improving. This bill will add to that burden and I do not think realtors deserve to have a piece of a pie that is not theirs in ownership. My response is a resounding no to this bill.

Richard Antoniuk

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Janis Aydelott

Organization: Individual

E-mail: [janis.aydelott@sbcglobal.net](mailto:janis.aydelott@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

I have had a great experience renting on HA through private party owners. I don't feel this should be approved



**From:** Gail Baker [mailto:gbakerg@aol.com]  
**Sent:** Friday, March 09, 2012 11:42 AM  
**To:** TOUtestimony  
**Subject:** Re: testing

**Bill SB2089 SD1, which recently passed Senate and is now in the House –will increase cost to travelers, reduce income to owners and take away the choice of dealing direct with each other by legislating we all use a middleman: property managers.**

-----Original Message-----

From: Gail Baker [mailto:gbakerg@aol.com]  
Sent: Friday, March 09, 2012 11:16 AM  
To: TOUtestimony  
Subject: testing

I oppose this,it will cost everyone more money!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ansilla Barrandeguy

Organization: Individual

E-mail: [aromeri@sbcglobal.net](mailto:aromeri@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

I am opposed to this measure. I rent my condo myself and all of my guests pay the proper taxes.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dan Barrett

Organization: Individual

E-mail: [barrettdan@gmail.com](mailto:barrettdan@gmail.com)

Submitted on: 3/9/2012

Comments:

I urge you to please do not pass this bill. We pay our HI taxes faithfully. If this bill passes we will be forced to sell.

We write in opposition to 2089 SD1, scheduled to be heard by the Tourism Committee at 9:30 a.m. on March 12. We are annual two-month renters of a condo at Vista Waikoloa on the Big Island, and have rented elsewhere in Hawaii for a number of years. We rent directly from the owner, a resident of Washington, and have always been treated fairly and responsibly. If we understand SB 2089 correctly, its passage will discriminate against nonresident owners by forcing them to use property managers, all for the alleged purpose of ensuring the collection of GE and TAT taxes. Its effect will be that nonresident owners will be unfairly disadvantaged in renting their properties because they will either raise their prices to pay for property managers or absorb the additional costs themselves. This will ultimately result in many of them being forced to sell their properties, probably at reduced rates because prospective buyers will be limited primarily to Hawaii residents.

Increased rents will cause us to reconsider travel to Hawaii. So will the blatant hostility toward nonresidents which is revealed in SB 2089. If Hawaii is having a problem collecting taxes from nonresident owners, it needs to address that problem as a tax collection problem. Surely nonresident property owners who do business in Hawaii may be required to abide by the same laws that apply to residents, and if they fail to do so, tax liens may be filed and other local actions taken.

The owner of the condo which we rent expressly includes GE and TAT taxes in the rental agreement. Initially, she employed a property manager, but now manages the property herself. Although we have had only minor problems with her property, our experience is that the property manager did not respond when we needed help, but that the owner responds quickly and thoroughly. Because she manages the property herself, she has been able to continually improve the property while still keeping her rents competitive. We hope to continue coming to Hawaii for extended stays during our winter months and will watch with interest what happens to SB 2089. We hope that, at the very least, a permanent exemption is created for nonresidents who purchased property prior to the effective date of this new law.

Greg and Lynn Baugher  
15208 De La Cruz Drive  
Rancho Murieta, California 95683  
(916) 354-2108  
[baugher2@hotmail.com](mailto:baugher2@hotmail.com)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Paul Beauchamp

Organization: Individual

E-mail: [pauljbeauchamp@msn.com](mailto:pauljbeauchamp@msn.com)

Submitted on: 3/9/2012

Comments:

Please vote NO on this Bill. It's the owners who pay taxes on these types of property and in many cases is my living/retirement income. I don't need a middle man or person to book my property nor should the customer have to pay extra. I don't think hotels need a realtor to rent rooms at a hotel. If I have to pay for a middle man then I will no longer be able to rent this type of room since the renters (customers) won't be willing to pay an additional \$75-\$100 per night. Remember their on many owners that will get hurt as well as voters. I would highly suggest you don't vote for Bill SB2089. An owner and VOTER.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sarah Bedinger

Organization: Individual

E-mail: [bedingers@wavecable.com](mailto:bedingers@wavecable.com)

Submitted on: 3/9/2012

Comments:

I am taking the time to submit this statement in opposition of SB2089 because I occasionally travel to Hawaii with my family for vacation and I oppose having to rent via a management agency. In the past, we have had extremely positive experiences renting directly from condo owners at an economical price. The fact that this has been the case has been the only the reason that our family has been able to afford to spend additional dollars on additional tourist activities. Should this bill pass, competition for condo rentals will decrease and prices will rise, leaving less disposable dollars for tourists to spend at local businesses and restaurants. If this bill passes, many families like us will be forced to choose alternative vacation destinations.

Thank you.

Sarah Bedinger

Sequim, Washington

## Opposing SB2089 SD1 Amended

Dear Sir or Madam:

I am against the above bill for the following reasons:

- it is discriminatory against non-residents and likely unconstitutional
- the objective, to collect tax can be accomplished by requiring people to use an accountant to file their taxes and assess what taxes are owed.
- The owners who will be hurt here are the people who are law abiding and already collecting tax. I for one already collect your taxes as required. I just this morning collected \$793.79 in transient accommodation and excise tax which will be remitted this quarter.
- Costs associated with paying property manager will have to be passed on to renters which will raise prices substantially and cause tourists to choose other, cheaper designations
- Many owners will choose to sell and this will decrease the value of everyone property as units flood the market.
- There are existing laws in place to collect tax and you should focus on enforcing them as people who are flouting the current laws will no doubt ignore the requirements to use a property manager.
- local realtors are not in favour if this law please find below a response I received from The Hawaii Association Of Realtors:

Hi Brad Tomlinson, The Executive Officer of Hawaii Island Realtors whom you wrote to asked me to respond to your concerns.

I am a Realtor with an office on Oahu & Hawaii Island. I am a member of the Hawaii Assoc. of Realtors (HAR) Government Affairs Committee (GAC). SB2089 and others with a similar purpose are NOT Realtor bills. Some real estate licensees who may also be members of HAR have talked to their legislators about owners they feel are not paying appropriate taxes. These legislators have introduced the bills. The HAR GAC has been monitoring the bills because they have in impact on real estate and our clients.

We at HAR strongly support private property rights for all who follow the laws affecting those private properties. I hope you are in a position to continue to enjoy your property purchased in Hawaii for many years to come. With Aloha, Mary

Mary Begier, Realtor®, CRB, CRS  
Principal Broker  
Mary Begier Realty  
Big Island Off. 808-935-0737  
Honolulu Off. 808-733-5562  
Toll Free 800-728-8555

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Vic & Kathy Bernard

Organization: Individual

E-mail: [katherinem@shaw.ca](mailto:katherinem@shaw.ca)

Submitted on: 3/9/2012

Comments:

March 9, 2012

#### OPPOSING SB 2089

We are writing this letter of concern regarding SB 2089 and OPPOSED to it becoming law. This bill has the interest of many taxpaying vacation rental owners and a body of realtors/property management companies.

Today's economy is fragile to say the least.

If SB 2089 is passed, it will have a devastating result for the real estate market as well as rental owners who may be forced to sell. The potential for a massive "FOR SALE BY OWNER" is very possible, just as we are seeing some positive improvement in the local economy. Owners will be forced to have their property managed through a licensed realtor/property manager at a huge expense by way of income reduction to the taxpaying owner.

The economy will take a further hit due to the above.

WE OPERATE UNDER EXISTING LEGISLATION AND FEEL IT IS UNCONSTITUTIONAL AND DISCRIMINATING TO PENALIZE THOSE WHO ABIDE BY THE LAW

- We have a General Excise Tax license and a Transient Accommodation Tax Certificate of Registration
- We collect and pay GET, TAT and Property Taxes on Vacation Rental Property
- We employ an on-Island Accountant, cleaning service and various trades
- We are self-appointed ambassadors of Tourism for the State of Hawai'i

It is for these reasons we have a vested interest in the opposition to this bill. We did not invest our hard earned money in Hawai'i, to become a "silent partner", by turning our investment over to a third party who has no financial contribution or personal interest in our investment.

THIS BILL IS UNCONSTITUTIONAL AND DISCRIMINATORY.

We strongly urge you to consider these concerns and OPPOSE this bill!!!

Thank you for your attention to this matter,

Respectfully your tax paying property owners of the county of Maui

Vic & Kathy Bernard  
Kihei Alii Kai



Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Cara Birkholz  
Organization: Individual  
E-mail: [carabirk@gmail.com](mailto:carabirk@gmail.com)  
Submitted on: 3/8/2012

Comments:

I am a resident condo owner and I am opposed this bill as I do not think it is an efficient way to collect taxes that are supposedly not paid. The supposedly un-reported taxes are just hear-say, there is no way of knowing what the number actually is. I absolutely agree the State is entitled to receive the taxes it is owed, and for the record, I charge, report and submit all the taxes I owe in a timely fashion.

I realize this bill does not at this time impact my business, however, I believe there is a good chance it will be changed to include resident owners down the road. Also, I know it will have a very negative impact on already deflated property values (which does concern me).

I believe having on-island realtor affiliated management companies running all (or substantially all) island rentals will have a negative effect on both tax revenues for the State and also the tourism industry as a whole.

1. Many rental management companies already do a poor job at marketing condos, how will they be able to cope with many more condos? Even though I live locally, I use two management companies to supplement my own bookings. If I needed to rely exclusively on bookings sent by them (and pay a commission on those bookings), my condo would get much lower rent (I have had to give both of them minimum rental prices I will accept) or would be substantially less occupied, in both cases reducing the GE and TA I owe.
2. As an owner I know there isn't 20-50% extra money to fork over to a management company for commission (yes, Outrigger at Palms at Wailea on Maui charges 50% commission off gross rents). This will force many owners to sell their properties, flooding an already depressed market, creating more foreclosures, and for that matter, lowering commissions realtors are making on housing sales, but also lowering property values (and thereby property taxes)!
3. Guests like renting directly from an owner, dealing with owners, making those personal connections. Many of the guests at our four Maui condos have previously rented through rental agencies, and now choose to rent privately because our condos are much better maintained and have better customer service. I could see a large number of guests choosing to spend their vacation dollar in other non-regulated states, or Caribbean countries instead.
4. I suspect there will be a backlash by many owners who will sell their condos and no longer come to Hawaii to spend their hard-earned dollars.

One approach to getting a better handle on rentals is to insist that every condo owner on Hawaii who does transient vacation rentals has a TA and GE number. Require condo associations to hand over occupancy reports for all their units, detailing the weeks it is empty/owner occupied/tenant occupied. Three of the four buildings we own in already collect this information for guest-check-in purposes. One could very easily compare the TA/GE reports with the occupancy reports and have a fairly clear picture if owners are reporting and paying the TA/GE they collect.

Please reconsider your options and do not pass this bill. Mahalo.

Cara Birkholz  
[www.maui-oceanview-condo.com](http://www.maui-oceanview-condo.com)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Martha Blackburn

Organization: Individual

E-mail: [gemblack@pacbell.net](mailto:gemblack@pacbell.net)

Submitted on: 3/9/2012

Comments:

While we do rent out our condo on the Island of Hawaii, we do so in a responsible manner by paying our taxes and soliciting renters who will contribute to the economy of the state. For 10 years a realtor managed our rental, and for us, did a very poor job. He paid the taxes exactly, but he did not solicit renters, did not supervise the upkeep and maintenance of the condo, but took 25% of the proceeds for himself. Since taking over the management ourselves, we have brought in more renters, who spend more money on the island. If you pass this legislation, we shall sell our condo. To this end, there will be more unsold real estate on the island, and less revenue for the state. This seems like a VERY bad plan on your part. Would you like to collect more taxes and deprive the locals of income or leave well-enough alone?

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gary Bodine

Organization: Individual

E-mail: [garybodine@juno.com](mailto:garybodine@juno.com)

Submitted on: 3/9/2012

Comments:

I oppose SB2089 and any other similar measures. I understand the need to see that the required TAT and GET tax be paid. I understand that there may be homeowners that are avoiding their obligation to file and pay such tax. I am a homeowner in Hawaii and collect, file and pay my GET and TAT tax. Please do not punish all non resident homeowners because a few do not pay the required tax. Realtors can pocket the funds as well. Those that want to cheat will always find a way. Require us to file our tax number or choose any number of other methods of monitoring the tax that should be collected, but if you require me to pay a realtor 25-50 percent to collect my rent, I will sell my property. Very sad for all if it comes to that, but I cannot afford to pay them their percentage and they generate no more rent than I can. I pay my real estate taxes on time, my Get tax, my TaT Tax, and my income tax on time!!

## **Testimony in Opposition to Senate Bill 2089 SD1**

A little more than 3 years ago my husband and I invested substantially in a condo in Kihei, Maui. The condo was in very poor condition and in desperate need of renovation. We did just that and now have a beautiful condo which is occupied almost 90 percent of the year. In addition to our personal use and that of our family and friends, our guests come from both the mainland and Canada. We are able to offer our clients a beautiful place to stay at a reasonable rate.

The passage of SB 2089 will change everything. Even though our business is successful, we barely manage to cover our expenses and mortgage payments. By the time we pay our island agent, utility costs, AOA fees, real estate taxes, GE and TA taxes, and mortgage payment we have nothing left over. If we are forced to add an additional expense of 25-40 percent for a licensed real estate agent to manage our property, we will be forced to sell. And we are one of the owners in good shape right now. There are many who are just barely hanging on; and if saddled with these additional costs, I shudder to think how many condos will flood the Maui real estate market.

We have followed all the laws and rules pertaining to transient accommodations. We have a Business License, a Tax I.D. Number, and pay our GE and TA taxes each month. We also support the Maui economy in that we utilize a local island agent and cleaning service, replenish our condo routinely with products purchased from small businesses in the area, call local repairmen for needed repairs, and bring many tourists to Kihei to stay in our beautiful island home.

We love our condo in Maui and care deeply about our guests' experiences. We only have one condo, and we pour our heart and soul as well as our hard earned money and personal labor into making it a place where those who stay will want to return to over and over again. No one will ever care about it like we do. A licensed real estate agent managing hundreds of properties cannot possibly give our single condo the time and support that we do.

SB 2089 SD1 infringes upon the constitutional and civil rights of property owners to manage one's own property and collect rental proceeds and is discriminatory in that it is not uniformly applied to all business owners or TA owners.

**I respectfully and strongly request that SB 2089 NOT be passed.**

LuAnn Boone

Testifier position: Oppose  
Testifier will be present: No  
Submitted by: LuAnn Boone  
Organization: Individual  
E-mail: [lboone70@gmail.com](mailto:lboone70@gmail.com)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Leslie Borse

Organization: Individual

E-mail: [llborse61@gmail.com](mailto:llborse61@gmail.com)

Submitted on: 3/9/2012

Comments:

I rented a condo by owner last fall and was able to afford and enjoy a most beautiful time and living quarters on my stay in Maui, When I searched for condo's through agencies, I was quoted almost double of what I paid, plus found it very difficult to get information about the unit. I would not want this law to pass. The freedom to choose should be up to the individual.

**From:** Janice Brown [mailto:JDSTalent@aol.com]  
**Sent:** Friday, March 09, 2012 8:23 PM  
**To:** brower1-Daniel  
**Subject:** Re: Testimony for SB2089

To whom it may concern

We are frequent visitors to the Island of Maui. Rather than stay at hotels we thoroughly enjoy renting a Condo for our visits. Over the past several years we have used the VRBO website to find available rentals. Most are privately owned and operated which makes it nice for us as we have personal contact with the owners and have made several new friends this way. We have also used Management Companies in finding a rental, and while always professional not as warm and welcoming.

We have found that rates from an owner rented condo's are much less per week than going through a Management Company as it should be since they do not have to pay a premium to a Management Company. We have always found the owner's to be helpful and available something that cannot always be said for a Management Company especially on the weekends.

It does not make sense to me to force all owners to use a Management Company who will then raise the rates that we the tourist must pay to visit. I know in our case we will have to shorten our visit if rates rise, as they will should this bill pass.

While I understand the feeling that using a Management Company might ensure better quality that is not always the case. A few years back we stayed at KOA Resort in Kihei, a managed property, and found our unit to be defective and very unclean when we arrived. Due to it being the weekend we had difficulty finding anyone to help us. By contrast our owner rental visits have always been flawless with everything in good working order and very clean.

There has to be a better way to ensure taxes are paid etc. without taking away the rights of the owners or causing a 30-40 dollar a day increase in rentals.

I hope you will take that into consideration when discussing this Bill.

Very truly yours

Janice M. Brown  
Santa Clarita, CA.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jennie Brookes

Organization: Individual

E-mail: [jbrookes14@hotmail.com](mailto:jbrookes14@hotmail.com)

Submitted on: 3/9/2012

Comments:

I rented over twenty condos for my wedding in Maui. When you are booking for your wedding you love everything to go smoothly. Talking to the individual condo owners gives you a satisfaction of receiving all the correct information, a trusting relationship and personal touch. You are able to pick what suits your personality and it makes it a great vacation being able to be in contact with the owner not some service desk. It would be shame in Hawaii to see this legislation passed, from a Canadian perspective it is what attracts me to come on vacation here. T

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bill Bylhouwer

Organization: Individual

E-mail: [bjbylhouwer@ihis.org](mailto:bjbylhouwer@ihis.org)

Submitted on: 3/9/2012

Comments:

I oppose having to rent via a management agency. I prefer to rent directly from the owner. I have had a very positive experience renting directly from condo owners.

Thank you



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Jeffrey Caputo  
Organization: Individual  
E-mail: [jjcaputo@pacbell.net](mailto:jjcaputo@pacbell.net)  
Submitted on: 3/9/2012

Comments:

This bill discriminats against off island vacation rental owners and is categorically unfair. It assumes that we do not pay our GET/TAT taxes which is not true. If passed it will have a significant negative impact on vacation properties on the island as the vast majority or owned by off island persons., in addition, this will have a negative ripple effect to all service and repair providers on island for vacation properties. It would render my vacation property as non profitable and it would de-value the property.

In addition, I seriously doubt this type of discrimination is legal,.

Sincerely, Jeff Caputo

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Judy Cash

Organization: Individual

E-mail: [judycash@stanleyind.com](mailto:judycash@stanleyind.com)

Submitted on: 3/9/2012

Comments:

RE: SB2089 SD1

Honorable Members of the Hawaii Congress

We respectfully ask that you defer action on SB2089-SD1.

As a non-resident property owner I strongly oppose SB 2089 SD1 for a multitude of reasons.

We are non-resident owners who have been diligently paying all our taxes and feel that this bill is an unnecessary burden on the entire system, when in reality, you have all the tools at your disposal to take care of the problem of non-payment of taxes. We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws, however SB2089-SD1 is NOT the answer.

Tourism in Hawaii took a huge hit with the recession. The rentals by owner model of accommodation is a popular option all over the world, and we feel is helping to boost the fragile economy and bringing guests back to the Islands.

Please consider that this bill requires far more discussion and analysis, we respectfully request you oppose the passage of SB2089 SD1 and vote no.

1. It is confusing. For example, why is form 990 required? This is a form for non-profits and has nothing to do with property rentals.
2. It is discriminatory - it places an extra burden on non-resident for no apparent purpose.
3. It serves no useful purpose to have a local contact included in an advertisement. This information may confuse potential visitors. In addition it violates the privacy of local contacts whose name and phone number only need to be known to actual visitors, not the general public.
4. It takes away the right of free choice - for both property owners and potential visitors.
5. It causes significant economic damage to Hawaii's best ambassadors - non-resident property owners. This bill is akin to killing one of Hawaii's golden geese.

Mahalo

Non Resident Condo Owner in Maui

Judy and Jim Cash

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: James Casper

Organization: Individual

E-mail: [jamescasper1@yahoo.com](mailto:jamescasper1@yahoo.com)

Submitted on: 3/9/2012

Comments:

Honorable State Senators,

We are opposed to SB2089. We cancelled using Maui Condo & Home as our condo agent several years ago because the 15% commission was prohibitive. We conscientiously pay all our taxes. If you want to catch tax cheaters, may we suggest you require all condo owners to report on their transient tax forms the dates and the price they rented their units, and then have agents surreptitiously rent randomly selected units to spot check if they paid the proper taxes.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kathleen Chiocca

Organization: Individual

E-mail: [kchiocca@yahoo.com](mailto:kchiocca@yahoo.com)

Submitted on: 3/9/2012

Comments:

My husband and I and now our married children have been vacationing in Maui for the past 25 years. We have always chosen Vacation Rental by Owners accomodations both for the cost savings and the ability to deal directly with owners. Shoud this bill pass we will be forced to vacation elsewhere. Please reconsider.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Elizabeth Christensen

Organization: Individual

E-mail: [Echristensen66@yahoo.com](mailto:Echristensen66@yahoo.com)

Submitted on: 3/9/2012

Comments:

I have visited Hawaii many, many times and have NEVER encountered a problem when renting directly from the owner of a condo. This bill is intended to put money in the pockets of realtors and management companies. It is a joke to consider otherwise. Government needs to stop injecting itself into affairs that are not it's concern. Do not support this bill or your tourist business will drop. As it stands, only someone with affluence can visit. Many who can only barely afford it will not be able to afford it if this passes.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Paul Columbus

Organization: Individual

E-mail: beachandsun@earthlink.net

Submitted on: 3/9/2012

Comments:

My wife and I request that you oppose the passage of SB2089 SD1 for the following reasons:

- 1) Many laws already exist that enforce tax compliance.
- 2) Existing laws already contain strong penalties for noncompliance.
- 3) Compliance with the proposed legislation will be punitive in nature and overly burdensome to small homeowners & landlords such as ourselves who are already complying with existing laws.
- 4) The proposed legislation will not withstand judicial review on constitutional grounds because
  - a) it discriminates against nonresidents and
  - b) it basically charges a non-optional fee to collect a mandatory tax.

Thank you

Opposed to SB 2089:

Attached: Department of Taxation letter that contains data where they concluded that legislation was not necessary nor recommended.

Is there is any new data that tells us this conclusion is no longer valid and if not, why is the legislation being re-considered.

Carol Coppel  
Condo owner

Carol Coppel

Department of Taxation Testimony  
SB 750 SD 3 HD 1  
April 3, 2007  
Page 3 of 4

Tax Board  
2007

**THE NECESSITY OF THIS BILL IS QUESTIONABLE**—The Department believes that this legislation is unnecessary. One issue that arose in prior committees was the status of the Department's efforts with the HTA regarding the audits of transient accommodations providers, including bed and breakfasts.

The HTA employed a consultant to search the Internet for advertisements for bed and breakfast operators and vacation rentals in Hawaii. HTA provided the results of this search to the Department. HTA's consultant located 1,452 advertisements for bed and breakfast operators and 6,902 advertisements for vacation rentals. Many advertisements were redundant because many operators and renters advertise on more than one website.

After correlating HTA's information with the Department's files and other information that was available, the Department initiated 123 audits on bed and breakfast operators that the Department believed were not properly reporting Hawaii taxes. The Department also initiated 182 audits on vacation renters.

Of the 305 combined cases, the Department has closed 68 audits and assessed \$1,473,219 in delinquent taxes.

**THIS BILL CORRECTLY PLACES THE ONUS OF IDENTIFYING RENTALS ON THE COUNTIES**—The issue of "illegal" transient accommodations is primarily a county issue. The recent complaints received by neighborhoods where transient accommodations are of great concern relates to zoning violations—not tax violations. As stated above, the Department concluded that, for the most part, transient accommodations providers are tax compliant. Whether the structure is zoning compliant is another matter. Zoning laws are strictly a matter for the county. The Department supports that this legislation shifts the onus of identifying and investigating the location of the suspect rentals on the counties. The counties should not be using the tax system to police its zoning laws. Nonetheless, the Department is more than willing to assist in order to assure maximum revenue. Though, as stated above, the Committee must be cognizant that increased scrutiny on these rentals may drive otherwise tax compliant taxpayers underground.

**SPECIFIC MULTI-AGENCY TASKFORCE, RESOURCES**—Furthermore, if the Committee is considering the Department to dedicate resources to targeting the residential vacation rental and transient accommodations tax enforcement, the Department would need additional resources that can be used to focus on this one area of tax collections with the assistance of other entities. The Committee provided the Department with an appropriation. The Department had previously requested an appropriation in the amount of approximately \$980,000 in order to staff an investigative office, auditors, and other facilities needs in order to comply with this legislation. In addition, the bill now requires the Department to prepare additional reports to the Legislature and requests an appropriation to handle this request.

However, as discussed, the Department questions whether this legislation is necessary. The Department does not believe there is substantial non-compliance with tax obligations.

Based upon the foregoing, the Department opposes this bill and requests that it be held as burdensome and unnecessary.



**Report Title:**

*TAT; Vacation Rentals; Bed and Breakfasts*

**Description:**

*Requires the Department of Taxation (DOTAX) to coordinate with the Hawaii Tourism Authority and each respective county to identify property owners subject to the transient accommodations tax who operate vacation rentals and bed and breakfast establishments. Allows audits of these owners and other enforcement actions to ensure compliance with applicable laws relating to the transient accommodations tax. Requires the counties to share transient accommodations information with DOTAX. Requires DOTAX to provide annual reports, including providing information on the estimated amount of general excise tax and transient accommodations tax revenue that is uncollected, and therefore lost, due to the lack of county enforcement. (SB750 HD2)*

---

# A BILL FOR AN ACT

---

*RELATING TO TRANSIENT ACCOMMODATIONS TAX.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The legislature finds that the State needs a better reporting system with respect to transient accommodations tax revenues collected from residential properties. Better reporting will enable the State to provide a more comprehensive tax system that is more equitable and cost-effective. In addition, better enforcement is needed to ensure that owners of vacation rentals and bed and breakfast establishments comply with the transient accommodations tax law.

The purpose of this Act is to, among other things:

- (1) Require the department of taxation to coordinate with the Hawaii tourism authority and each respective county to identify owners of residential properties subject to the transient accommodations tax who operate vacation rentals -- where the owner does not reside on the property -- and bed and breakfast establishments -- where the owner resides on the property;
- (2) Allow the department of taxation to coordinate with the Hawaii tourism authority and each respective county to conduct audits of the owners of residential properties who operate vacation rentals and bed and breakfast

- establishments and take other administrative and enforcement actions necessary to ensure compliance with applicable statutes, rules, ordinances, and other provisions of the law relating to the transient accommodations tax;
- (3) Require the counties and the Hawaii tourism authority to share certain transient accommodations information with the department of taxation;
  - (4) Require the department of taxation to report annually to the legislature on:
    - (A) Transient accommodations tax revenues received from owners of residential properties who operate vacation rentals and bed and breakfast establishments; and
    - (B) The estimated amount of general excise tax and transient accommodations tax revenue that is uncollected, and therefore lost, due to the lack of county enforcement of the tax laws;
  - (5) Require the department of taxation to review the forms and process relating to the collection of the transient accommodations tax from vacation rentals and bed and breakfast establishments and submit a report on the results of the review to the legislature at least twenty days before the regular session of 2008; provided that the report also contain recommendations on the appropriate funding mechanism, to include consideration of revenue collected from the transient accommodations tax, to reimburse counties for the costs associated with implementing this Act; and
  - (6) Appropriate funds to the department of taxation for additional investigations.

SECTION 2. Chapter 237D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237D-      **Vacation rentals and bed and breakfast establishments; enforcement; reporting.**    (a)    The department shall coordinate with the Hawaii tourism authority and each county to identify owners of residential properties subject to this chapter who operate:

      (1)    Vacation rentals, that is, when the owner does not reside on the property; and

      (2)    Bed and breakfast establishments, that is, when the owner resides on the property.

      (b)    The department may coordinate with the Hawaii tourism authority and each county to conduct general excise and income tax audits of the owners of residential property subject to this chapter who operate vacation rentals or bed and breakfast establishments and take other administrative and enforcement actions necessary to ensure compliance with applicable statutes, rules, ordinances, and other provisions of this chapter.

      (c)    The counties and the Hawaii tourism authority shall provide to the department the location of vacation rentals or bed and breakfast establishments subject to the taxes under this chapter; provided that the department shall not release any personal information regarding the taxes collected under this chapter.

      (d)    The department shall report annually to the legislature on:

      (1)    Tax revenues received under this chapter from owners of residential properties subject to this chapter who operate vacation rentals or bed and breakfast establishments, or both; and

(2) The estimated amount of general excise tax and transient accommodations tax revenue that is uncollected, and therefore lost, due to the lack of county enforcement of the tax laws;

(e) For the purposes of this section, the counties shall establish criteria:

(1) To identify vacation rentals and bed and breakfast establishments; and

(2) For control over vacation rentals and bed and breakfast establishments."

SECTION 3. Section 201B-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter; provided that the authority may enter into contracts and agreements for a period of up to five years, subject to the availability of funds; and provided further that the authority may enter into agreements for the use of the convention center facility for a period of up to ten years;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Unless otherwise provided in this chapter, adopt rules in accordance with chapter 91 with respect to its projects,

operations, properties, and facilities;

- (6) Through its executive director represent the authority in communications with the governor and with the legislature;
- (7) Through its executive director, provide for the appointment of officers, agents, and employees, subject to the approval of the board, prescribing their duties and qualifications, and fixing their salaries, without regard to chapters 76 and 78 if there is no anticipated revenue shortfall in the tourism special fund and funds have been appropriated by the legislature and allotted as provided by law;
- (8) Through its executive director purchase supplies, equipment, or furniture;
- (9) Through its executive director allocate the space or spaces ~~[which]~~ that are to be occupied by the authority and appropriate staff;
- (10) Engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the authority;
- (11) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) Procure insurance against any loss in connection with its property and other assets and operations in ~~[such]~~ amounts and from ~~[such]~~ insurers as it deems desirable;
- (13) Contract for or accept revenues, compensation, proceeds, and gifts or grants in any form from any public agency or any other source, including any revenues or proceeds arising from the operation or use of the convention center;

- (14) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State and its natural resources infrastructure; provided that the authority shall support the efforts of other state and county departments or agencies to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors;
- (15) Have a permanent, strong focus on marketing and promotion;
- (16) Conduct market development-related research as necessary;
- (17) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
- (18) Work to eliminate or reduce barriers to travel in order to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
- (19) Market and promote sports-related activities and events;
- (20) Coordinate the development of new products with the counties and other public sectors and private sectors, including the development of sports, culture, health and wellness, education, technology, agriculture, and nature tourism;
- (21) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- (22) Encourage the development of tourism educational, training, and career counseling programs;
- (23) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and [~~taking~~] take appropriate

action as necessary[7], including but not limited to coordination with the department of taxation under section 237D- ;

- (24) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility without regard to chapter 91;
- (25) Notwithstanding the provisions of chapter 171, acquire, lease as lessee or lessor, own, rent, hold, and dispose of the convention center facility in the exercise of its powers and the performance of its duties under this chapter; and
- (26) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, either directly or through developers, a convention center facility."

SECTION 4. The department of taxation shall review the forms and process for the collection of the transient accommodations tax and include separate categories of collection for residential properties used as vacation rentals and bed and breakfast establishments.

The department of taxation shall report the results of its review and report any findings and recommendations, including any proposed state and county enforcement and compliance initiatives, to the legislature at least twenty days prior to the convening of the regular session of 2008. In its report, the department of taxation shall also submit recommendations on the appropriate funding mechanism, to include consideration of revenue collected from the transient accommodations tax, to reimburse counties for the costs associated with implementing this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ , or so much thereof as may



be necessary for fiscal year 2007-2008, for additional investigation of undocumented vacation rentals and bed and breakfast establishments, in coordination with the counties and the Hawaii tourism authority.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 1, 2025.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: David Cowles  
Organization: Individual  
E-mail: [BigIslandFun@live.com](mailto:BigIslandFun@live.com)  
Submitted on: 3/9/2012

Comments:

Please don't shut down small businesses! Why are you doing this?! If you believe self managed rental units are not paying taxes, then require them to post their Hawaii tax "number in all advertisements which can easily be audited. Why force us to use property management companies that do not care about our units? Management companies do not screen renters as well as we can ourselves. They are not worth the 40% - 50% fee they charge but you want to force us to increase our rates to pay for them - this will hurt tourism to the State and lower tax revenues. Also, why are you discriminating against non resident owners? If this law is really needed, why shouldn't it apply to Hawaii residents who rent directly as well? Please reconsider this anti tourism/ anti small business measure. Thank you!

**From:** John & Janet Crews [mailto:jjcrews@me.com]

**Opposing Senate Bill 2089 SD1 Amended**

My wife and I are owners of a condominium on Maui, where we reside for half the year, and rent out for the other half. We are strongly opposed to this bill for many reasons.

Here is a list of reasons why we believe that this proposed bill should not be passed:

1. It is a serious impingement on some of the most basic rights of property ownership. If a person abides by all of the laws of zoning, taxation, etc, it is against all constitutional concepts of real estate ownership that he would be forced to turn over control of his property to an outside business. This would be equivalent to requiring by law that all property sales in Hawaii involve paying a commission to a real estate agent.
2. Financially, this bill will take money away from property owners who have invested in Hawaii, and transfer it to management people who have no vested interest in the property.
3. We have the required business license to rent our property, and have always paid the appropriate taxes when our property is rented. Passing this bill would essentially shut down our personal rental business, and transfer a portion of the income to management people who have no direct interest in our property. We hear a lot from government about the importance of supporting small businesses. Passing this bill would not only shut down our small family rental business, but may also force the sale of our condo, since our budget would not allow for property management commissions.
4. By personally controlling the rental of our property, we can make personal contact with the people that we choose to rent our part time home to, which provides a level of comfort and security over who we let into our home. Management companies have no such personal interest in who is let into a home, and there are innumerable stories of rental units being destroyed by renters put in by uncaring agencies. This problem is undeniably common.
5. We take great personal pleasure and pride in our part time home on Maui, and take equal pleasure and pride in being able to share it through rental to others when we are not there. We carefully choose our cleaning and maintenance people, and enjoy working directly with those that will be caring for, as well as renting our home. Giving up these rights to control the care and rental of our property is not just an invasion of our financial and business rights, but of our ability to control the usage of our part time family home.
6. From our own experience, and the experience of many fellow property owners that we have talked to, forcing an owner to work with a property management company exposes that owner and his property to numerous risks that he would not otherwise be exposed to. Here is a list from our experience: 1. Keys being passed around allowing unauthorized access to the unit. 2. People staying in the unit that were never reported to the owner. 3. Excessive numbers of occupants allowed to stay in the unit. 4. Insufficient qualifying of potential renters resulting in damage to the unit. 5. Improper accounting to the owner. 6. Poor cleaning of the unit between guests. 7. Poor maintenance of the unit. When an owner is in direct control of his unit, and has direct contact with the guests as well as the cleaning and maintenance people, these problems rarely exist.
7. We have heard the argument that this bill will increase the states income by enforcing the payment of taxes on rentals. I do not feel that this bill is a valid approach to this problem. First of all, it is incredibly unfair to those of us who have been diligently paying taxes on our rentals to force us to now pay large commissions to real estate companies. Secondly, I do not believe that it will significantly increase enforcement. Those that have been avoiding the tax laws, will most likely ignore this new law requiring the use of a rental agency. In fact, I think that the huge increase in

cost imposed by the rental agencies will encourage more owners to go "underground", since their budgets may not have the room to accept the extraordinary additional cost that this bill would impose. It will likely put some law abiding owners in the position of either needing to now go underground, or sell their property since the remaining income to them may not cover their mortgage and other costs of ownership.

8. Currently, the majority of units rented directly by their owners can be tracked on the sites through which renters find these units; sites such as VRBO (Vacation Rentals By Owner). Our local community successfully made use of this and similar sites to ensure that owners were paying our local rental taxes. Since this worked so well here, I would suggest a similar approach in Hawaii would be much more equitable than legislating away property rights.
9. In our case, if this bill were to pass, we would be forced to either sell our Hawaii home, or try to convert our unit into a long term rental, either of which would cost the state thousands of dollars a year in tax revenue that we currently pay. This would be a lose- lose result for both us and the state, costing both of us income. If this bill were to pass, the only winners would be the property management companies, which would have been handed a monopoly by the legislature.
10. Lastly, in regard to the amendment that was attached to this bill, I would make the following observation. The exemption makes sense if the owner can prove that he has historically paid all taxes, and if any requirement for a local contact would be satisfied by a condominium office on the premises, even if that office is not involved in rentals, but only in managing the condominium complex.

I strongly urge you to vote against any bill that unreasonably impinges on the basic rights of law abiding tax paying property owners, takes away control of our part time homes, and forces property owners to pay large management fees that will destroy carefully planned budgets that families are counting on to be able to afford their part time home, vacation home, and hopeful retirement home.

Thank you for considering our position on this matter.

John Crews  
808-250-4959  
220D Bald Mt. Rd.  
Ketchum, ID. 83340  
*John Crews*

We are owners of one condo in Maui and take great pride in renting our condo so others can discover this beautiful island and culture. Should Bill 2089 pass through the State of Hawaii legislation process, we will no longer be able to afford this luxury.

We presently pay both state and federal taxes and follow all the governing rules. We employ two local residents to clean and have a local resident who oversees the condo. We personally take care of the rental process ourselves.

It is very unfair to penalize those of us who manage our own rentals and follow all the rules and regulations. We should not be made to hire a property management firm that will charge us a high percentage to administer the rental and not promote the island or look after our "homes on Maui" to the high standards we hold ourselves at. We should be exempt.

We tried employing a property management company for a period of one year back when we first purchased our condo and it was a total disaster. We found we had to lower our expectations and standards to deal with them. They disappointed us greatly.

We fully support the government investigating the owners that are not complying with the state and federal regulations, but not OUR expense.

Dale & Verla Crewson  
108 Rabbit Hill Court, N.W.  
Edmonton, AB, Canada T6R 2R3

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Larry & Kathy Crowley

Organization: Individual

E-mail: [crowleyla@aol.com](mailto:crowleyla@aol.com)

Submitted on: 3/9/2012

Comments:

My wife and I are annual visitors to Kaua'i. We look forward to our trips and doing business with individual property owners via VRBO. We are strongly opposed to this legislation. It puts control of other people's property in the hands of property managers who are often not the best representatives of your community. I strongly resent this legislative intrusion on the property rights of individuals who happen to own and rent their property. This will only result in less competition and higher costs. Please do not pass this bill. Thank you for the opportunity to comment.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bonnie Curran

Organization: Individual

E-mail: [bonnie.curran@shaw.ca](mailto:bonnie.curran@shaw.ca)

Submitted on: 3/9/2012

Comments:

I recently visited Hawaii and rented a condo directly from the owner. I found this to be a very pleasant and positive experience. I was able to speak directly to the owner and to have direct access to the owner regarding any concerns and indeed, the whole Island experience. I am very opposed to renting from a central management agency as I feel the quality of care and personal interaction would suffer. I sincerely hope you will reconsider this bill which would adversely affect many people's holiday in Hawaii.

RE: Supporting SB 2089 relating to transient vacation rentals

The issues relating to Rentals by Owners are rising daily. Many are relating to tax, but the ones that concern me the most are related to guest experience. I own a small vacation rental company at Waikoloa Beach Resort and am very involved in the day to day activities. It is getting to a point where there are almost more vacation rentals with illegal activities in some form or another than there are legal ones in the entire resort. On a daily basis I see guests getting cut short due to renting directly from owners. Although I do see where this bill will gain the State of Hawaii more tax dollars, the basis of my testimony is more on the side of making sure guests are taken care of while they are here.

Given how far Hawaii is from the mainland, I think it is safe to say that everyone needs someone "on island" to assist guests at their property. I manage just over 30 properties and get 5-10 calls daily with guests needing assistance. It can range from a leak to something as simple as they can not get the tv to work. 75% of the time it requires me to go to their property and assist them.

I see and get calls frequently from guests that rent from owners and are not being taken care of while they are here in Hawaii. I have seen guests show up and their condo be dirty with them only having a mainland contact number and getting no answer. I have seen guests show up and there be someone in the condo they rented and, once again, them getting no answer from their mainland contact number. The most common is them showing up and the lock box being jammed or no key in the box and once again not getting an answer late at night.

The list can go on of things I have seen. The frustrating part for guests is that in our industry the rent is paid up to 90 days prior to arrival. When these guests arrive and have issues there is absolutely no leverage since the owner already has the money. They end up having to stay in a hotel for the night and deal with the owner the next morning....if there is an answer. What a start to a vacation!

Relating to taxes there are many illegal avenues being opened up by the rise of the Rentals by Owner. Many owners are no longer just marketing their own properties, but also marketing for other owners. All the funds are being handled on the mainland so it is hard for the State of Hawaii to track that this is even going on. Obviously this is taking money that legal Hawaii businesses would be paying taxes on and putting it in the hands of people out of state. In these instances they are using housekeepers to actually manage the properties.

In the end if something is not accomplished you will continue to see a rise in not only Rentals by Owners but also Rental by Owner businesses and a fall of legal Hawaii businesses. This will cost the State of Hawaii millions in tax dollars.

Rob Dalton  
Waikoloa Vacation Rental Mgmt.  
808-987-4519  
WaikoloaVRM@aol.com  
www.WaikoloaVacationRentals.com



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Irene Danaher

Organization: Individual

E-mail: [tdanaheris@shaw.ca](mailto:tdanaheris@shaw.ca)

Submitted on: 3/9/2012

Comments:

Our family group of 20, which included our grandchildren, siblings, in-laws and close friend, rented several condos at Kihei, Maui, over the Christmas period December, 2010. It was a trip of a lifetime for all of us. We were hoping to revisit this beautiful location soon. The majority of our group had never visited Hawaii. All of our rentals were through owners. Every family had nothing but positive comments about their experiences, and praise for the efforts taken by the owners to ensure the BEST holiday we could have. The condos were excellent and the personal assistance from the owners was second to none. There was a personal touch present that is not found in managed properties. It most likely stems from the fact the the owners stay there themselves and take pride in providing amenities and local information that assists their renters and makes them feel at home. There was a truly welcoming feeling to the property which one can't get through managed companies. If this law passes, we will give serious thought to alternative travel destinations. Our previous travelling has taken us to a wealth of destinations throughout the world. As you know, there are unlimited choices globally. Hawaii will be the loser in this instance and it will affect the most vulnerable - the Hawaiian working poor as their jobs will evaporate. Please reconsider the passage of this bill. Thank you for your kind consideration.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Teri Dantzler  
Organization: Individual  
E-mail: [teri@terilou.com](mailto:teri@terilou.com)  
Submitted on: 3/9/2012

Comments:

SB 2089 Testimony

I strongly oppose this measure because it will only benefit the Property Managers and negatively impact tourism. Property Managers charge 40-50% for their services that will cause owners to either increase their rates by the same margin or take an additional 50% hit against their bottom line. Since rental clients will not be willing to pay the increase owners like me who are barely holding their head above water will lose 40-50% of their profit and go into foreclosure. In the last 5 years prices have dropped significantly and renters dropped in half. With that bleak news I am sure many owners have chosen to manage their own properties and not go through a Property Management Company. However this measure will not increase revenue to the State if the properties don't get rented and/or the owners are making no profit because it is all going to the Management firm. I have always collected, reported and remitted my Transient and Excise Tax payments to the State of Hawaii on time. Don't punish the law abiding owners who pay their taxes on time with a law that will decrease revenues to the State because of a few tax cheaters.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dav

Organization: Individual

E-mail: FSCROONER@HOTMAIL.COM

Submitted on: 3/9/2012

Comments:

SB 2089 is highly discriminatory serving only to provide realtors with an illegal monopoly. If owners have the right to sell property by owner, how can they be denied the right to rent their property? Like the great majority of nonresident owners, I have no problem with the objective of collecting taxes, but in this case the means do not justify the ends: bad law does not compensate for failure to enforce existing law.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jennifer Davis

Organization: Individual

E-mail: [jdavis@turnleaf.ca](mailto:jdavis@turnleaf.ca)

Submitted on: 3/9/2012

Comments:

My family and I have vacationed annually in Hawaii for the past 7 years. We initially rented a condo through a management company and due to the cost were only able to spend 2 weeks there. In the past five years we've rented a much cleaner, better allocated condo, directly from an owner and have been able to increase our stay to three weeks. The owner direct experience has been much more professional, personalized, and overall pleasurable. Having to rent from a management company would have a direct impact on our lengths of stay and thereby our expenditures while on island. We would likely reconsider the vacation entirely as our experience with management companies has been largely dissappointing.

To: Tourism Committee  
Re: March 12 9:30 a.m. Hearing

I strongly oppose SB 2089 SD1 Amended.  
This bill is unconstitutional as it targets only non-residents

**I completely support paying tax but oppose inserting property managers or realtors into the equation.**  
They are the only ones who benefit from this law---everyone else loses:

Real estate is coming back and this law will discourage future owners-which will reduce income to HI

Tourists are returning and this could have a devastating effect on their numbers which  
In turn will reduce income coming into Hawaii

The Bill as amended is not clear and needs to be spelled out.

Please take time to clearly understand the ramifications of this bill if passed. It will not help HI---It will hinder it.

Yours truly,  
Karen Dedman, condominium owner

**From:** dickndiane@comcast.net [mailto:dickndiane@comcast.net]  
**Sent:** Friday, March 09, 2012 1:43 PM  
**To:** TOUtestimony  
**Subject:** testing

HB 2089 Bad Bill ----- will bring Maui economy BACK down even lower than where it is JUST beginning to recover. It will crate a mass Exodus of "out of county owners". The real estates market will be swarmed with sales bring the market BACK down again. Not a smart bill. We are OPPOSED !

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Beth Dickson  
Organization: Individual  
E-mail: [bethnken@msn.com](mailto:bethnken@msn.com)  
Submitted on: 3/9/2012

Comments:

To Whom it May Concern:

My family recently visited Kauaii this past December. We rented a Condo in Princeville that we found on VRBO. It was a beautiful place to stay and because the cost was so reasonable we were able to stay in Hawaii for a much longer time and to do more activities while we were visiting. The other commercially managed homes/condos that we checked into were 25-50% more expensive for the same amenities. We loved our vacation in Kauaii so much that we plan to return as soon as possible but if we were forced to pay that much increased cost we would be forced to rethink vacation plans and to go somewhere more affordable. Airfare to/from Hawaii and food costs are very expensive and if housing rentals increase by such a drastic amount we definitely would plan to vacation elsewhere.

Renting from an owner was a wonderful experience. It was far more pleasant working with an owner than when I tried to work with a commercial property manager. All she seemed to want is for me to commit to a property and had no interest in what my needs were. Plus taxes were included in the rental fee!

This sounds like a proposal put forth by realtors or commercial properties to do away with VRBO. As a traveler I like to have many options to choose from when vacation planning.

Thank you.

Sincerely,

Beth Dickson

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sharon Diercks

Organization: Individual

E-mail: [sharondiercks@hotmail.com](mailto:sharondiercks@hotmail.com)

Submitted on: 3/9/2012

Comments:

I oppose SB2089 As a owner of one condo that does pay our 13.42% tax and send the State of Hawaii a tax return I feel that the State of Hawaii is being unfair and unlawful to say that we much use a Property Manager for our condo. We have use a property manager in the past and we had more problems with them than not. You have no control who rents you unit or for how many days. Being that we manager our one ourself, I have personal contact with every guests we have. Being they have that personal contact with the owner that take good care of the property. Our full time neighbor told us that they were much happier when we left the property manager and agree with us that our grests were very nice took care of our condo.

We are getting more and more returning guests each year, they love Maui and our location. If we have to raise our feeds (which we haven't done in 2 years) they may not come and stay their 2 to 4 weeks. When they are here thet spend money, for food, resturants, entertainment, rental cars, Without these guests you would be losing much more that the tax revenue, we as owners would loss to. Every year we do some type on improvement which we hire local, and purchase all items local so we put back into the economy. With paying a property manager we wouldn't do this.

I feel that we have done every thing right by compling with the present laws and by passing the SB2089 you are taking our rights to manager our one unit.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Lisa Downer  
Organization: Individual  
E-mail: [lisa@balihai.com](mailto:lisa@balihai.com)  
Submitted on: 3/9/2012

Comments:

RE: Testimony Supporting SB 2089

I am providing testimony in support of SB 2089.

We are all aware of the present economic circumstances our State presently finds itself in. I wanted to highlight a very significant concern of real estate professionals throughout Hawaii, as well as a major opportunity for the State to recover major tax revenues it has clear rights to, which it is presently losing every day. The loss of these tax revenues can be avoided in a very straight forward manner as described in SB 2089.

Our State's economy runs on tourism. One aspect of this from a State revenue perspective is tax, both TAT as well as the Excise, for visitors lodging. Our lodging industry is a mature and professional industry, appropriately regulated via licensees of the State, serving our State's guests well, while insuring appropriate tax monies are provided to the State on all visitor stays.

With the advent of the internet, there has been an explosion of Rental By Owner (RBO) activities occurring outside the State via the internet. Owners who reside primarily on the mainland are renting their Hawaii second homes over the internet, without the appropriate on-island representation for, or management of, this rental activity, in direct violation of HRS 521-43(f).

These mainland owners may or may not charge Hawaii Tax on their reservations, and if they do, there is no way to know if some or all of these collected tax revenues are ever provided to the State of Hawaii. This transaction takes place outside of Hawaii invisible to Hawaii tax authorities. The potential loss of TAT and Excise tax revenues from this illicit activity is in the tens of millions of dollars annually, and increases daily.

These tax collected monies, as well as guest rental monies, are intended by regulation to be held in FDIC insured bank Trust accounts in the State of Hawaii where they can be accounted for by state authorities, and consumer's/visitor's interests can be protected. Monies collected by mainland owners of Hawaii properties can be deposited to the property owner's mainland checking account, commingled with their personal funds, and where Hawaii has no means to monitor or protect its tax rights.

Tourism being one of our State's core industries, it is in our vested interest to insure that we do everything we can to insure a positive guest experience, as well as the State capturing as much of the tax revenue that it is entitled to.

We have a whole industry of lodging and real estate companies here in Hawaii that abide by State regulations, and bear the costs of following these rules. These Hawaii companies are being placed in an increasing difficult and noncompetitive position due to the magnitude of the problem. Where not long ago, this RBO activity was a nuisance, it is now approaching 40 to 50% of all condo rental units in Hawaii. Persons who don't abide by laws and regulations, don't bear the costs attributable to them, and can offer goods & services at significant discounts to Hawaii businesses following regulations, and who pay salaries and employee costs.

Lastly, illegal vacation rental activity in locations where this activity should not occur due to zoning, deed restriction, or ordinance is a major issue in several of the counties. Professional property management firms are highly unlikely to involve themselves with properties where rental activity is not permitted. The bulk of the rental activities occurring in locations where short term rentals are not permitted is being conducted via owner direct bookings through the internet. Addressing illegal RBO rental activity, would not only have the beneficial impacts upon Hawaii and its tax revenue short fall as discussed previously, it would significantly reduce this very contentious and emotional issue for Kauai, Oahu and Maui counties.

I would strongly request that for all the good reasons cited above that SB 2089 be passed by this committee.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Maury Dubuque

Organization: Individual

E-mail: [maury.dubuque@colliers.com](mailto:maury.dubuque@colliers.com)

Submitted on: 3/9/2012

Comments:

With respect, this bill in my view will have serious and unintended ramifications. The efforts to increase tax compliance will without question have a negative impact on tourism as such a bill will likely see the price of accommodation increase by 25-35%. Tax collectors seem to be creative so my guess is a more suitable solution to compliance can be found. I very much enjoy dealing one on one with a host of families that I have rented from in my visits to Hawaii over the past 39 years. I like the personal touch and they like getting to know their renters. Capital is a mobile commodity and if Hawaii becomes an even higher cost travel destination, there are many other choices. I'm sure your competitors are thrilled by the introduction of this destructive measure.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Catherine Eckel

Organization: Individual

E-mail: [CEckel@Pinninvest.com](mailto:CEckel@Pinninvest.com)

Submitted on: 3/9/2012

Comments:

Please OPPOSE this bill.

It will do significant damage to tourism and non-resident property owners. That damage will take a very long time to repair.

I oppose the bill for the following reasons:

1. It will reduce tourism because it will cause significant economic harm to non-resident property owners who are the best ambassadors that Hawaii has. These non-resident property owners love Hawaii and its people and convey their enthusiasm to potential visitors every day. Do not destroy their enthusiasm for Hawaii by inflicting significant economic harm on them.
2. It reduces the right of visitors' right of free choice to decide if they would like to rent directly from an owner or instead go through an agent
3. It will reduce property values since it will make it less attractive to own property in the State of HI. This will result in lower property taxes.
4. It is unconstitutional since it discriminates against non-residents. (see accompanying legal opinion) <http://dl.dropbox.com/u/18145193/2089%20legal%20opinion%20-%20DAMON%20KEY%20LEONG%20KUPCHAK%20HASTERT.pdf>
5. The Department of Taxation testified in 2007 that there was not a substantial non-compliance problem. There has not been any hard data submitted to suggest that situation has changed. (see accompanying testimony) <http://dl.dropbox.com/u/18145193/2007-04-03%20DOTAX%20Testimony%20opposing%20SB%20750%20SD%203%20HD%201.pdf>
6. This appears to violate the provisions of NAFTA (North America Free Trade Act) (see accompanying letter <http://dl.dropbox.com/u/18145193/NAFTA%20and%20SB2089%20.pdf>).

These are all substantial issues that must be considered and addressed before the bill should be approved. This will take time. Please do NOT rush this bill through. The damages will be very consequential both for the State of Hawaii and the non-resident property owners.

Mahalo

Catherine Eckel

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: John Eckel

Organization: Individual

E-mail: [John.Eckel@Pinninvest.com](mailto:John.Eckel@Pinninvest.com)

Submitted on: 3/9/2012

Comments:

Aloha,

I have been a non-resident property owner since 1989 and love teh Hawaiian lsalnds and its people.

My mother always said "haste makes waste".

For that reason I plead with you to DEFER SB 2089.  
Please do not rush to pass it.

This bill will do more than create waste; it will do significant damage to tourism and non-resident property owners. That damage will take a very long time to repair.

I oppose the bill for the following reasons:

1. It will reduce tourism because it will causes significant economic harm to non-resident property owners who are the best ambassadors that Hawaii has. These non-resident property owners love Hawaii and its people and convey their enthusiasm to potential visitors every day. Do not destroy their enthusiasm for Hawaii by inflicting significant economic harm on them.
2. It reduces the right of visitors' right of free choice to decide if they would like to rent directly from an owner or instead go through an agent
3. It will reduce property values since it will make it less attractive to own property in the State of HI. This will result in lower property taxes.
4. It is unconstitutional since it discriminates against non-residents. (see accompanying legal opinion)  
  
<http://dl.dropbox.com/u/18145193/2089%20legal%20opinion%20-%20DAMON%20KEY%20LEONG%20KUPCHAK%20HASTERT.pdf>
5. The Department of Taxation testified in 2007 that there was not a substantial non-compliance problem. There has not been any hard data submitted to suggest that situation has changed. (see accompanying testimony)

6. This appears to violate the provisions of NAFTA (North America Free Trade Act) (see accompanying letter

<http://dl.dropbox.com/u/18145193/NAFTA%20and%20SB2089%20.pdf>).

These are all substantial issues that must be considered and addressed before the bill should be approved. This will take time. Please do NOT rush this bill through. The damages will be very consequential both for the State of Hawaii and the non-resident property owners.

Mahalo  
John Eckel

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF TAXATION  
P.O. BOX 259  
HONOLULU, HAWAII 96809

PHONE NO: (808) 597-1510  
FAX NO: (808) 597-1560

## HOUSE COMMITTEE ON FINANCE

### TESTIMONY REGARDING SB 750 SD 3 HD 1 RELATING TO TRANSIENT ACCOMMODATIONS TAX

April 3, 2007

This bill requires the Department of Taxation (Department) to coordinate with the Hawaii Tourism Authority (HTA) and the various counties to:

- Investigate into current nonresidential transient uses of residential property;
- Report on various developments of transient accommodations tax collections; and
- Analyze the current transient accommodations tax return forms.

The Senate Committee on Tourism & Government Operations made various amendments to the bill.

The Senate Committee on Economic Development & Taxation made various substantive amendments to the bill.

The Senate Committee on Ways & Means made technical, nonsubstantive amendments to the measure.

The Senate passed the measure on third reading.

The Joint House Committee on Tourism & Culture and Economic Development & Business Concerns amended the bill by eliminating provisions requiring the Department to share confidential tax information and requiring HTA and the counties to provide information to the Department; requiring the Department to report on tax statistics and investigation performance; and requiring the counties to develop identification and permitting of vacation rentals.

The Department of Taxation supports the amendments that eliminate the Department's requirement to disclose confidential taxpayer information. However, the Department opposes this measure as burdensome and unnecessary.

The Department supports legislation that is aimed at assuring optimum revenue collections, especially from delinquent or unpaid sources. Though the issue of illegal transient accommodation units has primarily been an issue for the counties, the Department recognizes the shared interest with the counties to assure that transient accommodation providers are in full compliance with the various

Department of Taxation Testimony  
SB 750 SD 3 HD 1  
April 3, 2007  
Page 2 of 4

laws, including tax laws. However, the Department believes this bill is the wrong vehicle.

The Department has the following comments and concerns—

**AMENDING THE BILL TO MAINTAIN TAXPAYER CONFIDENTIALITY WAS CRITICAL—**The Department supports the recent amendments that eliminated the requirement that the Department share confidential taxpayer information with the counties. The Department holds taxpayer information in confidence as is required by law and to the betterment of the self-reporting tax system.

Presently, HRS § 237D-13 provides the Department with limited ability to discuss taxpayer information with third parties, including other government entities. The Senate Committee on Ways & Means pointed out this provision and asserted that it allows counties to access tax information. However, the Committee did not take into account that in order to obtain specific taxpayer information, there must be a finding of a "material interest." Since Department personnel are subject to criminal liability for improper disclosure, the determination of whether a material interest exists should not be made haphazardly. Moreover, tax information can only be released for "tax purposes only." Again, with criminal liability at stake, the determination of a tax purpose cannot be made haphazardly. With regard to illegal vacation units, the purposes for which counties are seeking tax information is to enforce zoning laws—not tax laws. Thus, the counties have no legitimate tax purpose for taxpayer information.

The Department will be unable to share information of taxpayers that rent property and who do not currently pay transient accommodations tax. During the last audit project, information of non-reporters was obtained from federal tax information. This information cannot be shared with the counties under any circumstances. Any information on non-reporters cannot be shared because the information can only be obtained from federal information; not any state returns.

The Department's ability to release taxpayer information, such as specific addresses or locations, is very limited because releasing the address, as was required in prior drafts of this bill, obviously identifies the taxpayer.

The Department appreciates the amendment that allows the Department to accept tips from third parties; however, the Department notes that the ability to receive information from third parties exists under current law. Essentially, information regarding this legislation will only flow one direction, from the counties to the Department.

**INCREASED SCRUTINY MAY DRIVE TAXPAYERS UNDERGROUND—**The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant. The Department fears that any increased scrutiny could potentially backfire and drive otherwise tax compliance individuals "underground." Taxpayers that are forced "underground" can have a direct impact on collections.



## Department of Taxation Testimony

SB 750 SD 3 HD 1

April 3, 2007

Page 3 of 4

**THE NECESSITY OF THIS BILL IS QUESTIONABLE**—The Department believes that this legislation is unnecessary. One issue that arose in prior committees was the status of the Department's efforts with the HTA regarding the audits of transient accommodations providers, including bed and breakfasts.

The HTA employed a consultant to search the Internet for advertisements for bed and breakfast operators and vacation rentals in Hawaii. HTA provided the results of this search to the Department. HTA's consultant located 1,452 advertisements for bed and breakfast operators and 6,902 advertisements for vacation rentals. Many advertisements were redundant because many operators and renters advertise on more than one website.

After correlating HTA's information with the Department's files and other information that was available, the Department initiated 123 audits on bed and breakfast operators that the Department believed were not properly reporting Hawaii taxes. The Department also initiated 182 audits on vacation renters.

Of the 305 combined cases, the Department has closed 68 audits and assessed \$1,473,219 in delinquent taxes.

**THIS BILL CORRECTLY PLACES THE ONUS OF IDENTIFYING RENTALS ON THE COUNTIES**—The issue of "illegal" transient accommodations is primarily a county issue. The recent complaints received by neighborhoods where transient accommodations are of great concern relates to zoning violations—not tax violations. As stated above, the Department concluded that, for the most part, transient accommodations providers are tax compliant. Whether the structure is zoning compliant is another matter. Zoning laws are strictly a matter for the county. The Department supports that this legislation shifts the onus of identifying and investigating the location of the suspect rentals on the counties. The counties should not be using the tax system to police its zoning laws. Nonetheless, the Department is more than willing to assist in order to assure maximum revenue. Though, as stated above, the Committee must be cognizant that increased scrutiny on these rentals may drive otherwise tax compliant taxpayers underground.

**SPECIFIC MULTI-AGENCY TASKFORCE, RESOURCES**—Furthermore, if the Committee is considering the Department to dedicate resources to targeting the residential vacation rental and transient accommodations tax enforcement, the Department would need additional resources that can be used to focus on this one area of tax collections with the assistance of other entities. The Committee provided the Department with an appropriation. The Department had previously requested an appropriation in the amount of approximately \$980,000 in order to staff an investigative office, auditors, and other facilities needs in order to comply with this legislation. In addition, the bill now requires the Department to prepare additional reports to the Legislature and requests an appropriation to handle this request.

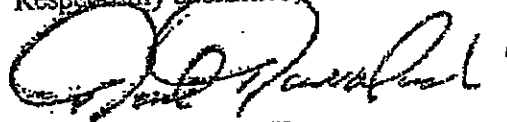
However, as discussed, the Department questions whether this legislation is necessary. The Department does not believe there is substantial non-compliance with tax obligations.

Based upon the foregoing, the Department opposes this bill and requests that it be held as burdensome and unnecessary.

Department of Taxation Testimony  
SB 750 SD 3 HD 1  
April 3, 2007  
Page 4 of 4

Thank you for the opportunity to testify.

Respectfully submitted,



KURT KAWAFUCHI  
Director of Taxation

# DAMON KEY LEONG KUPCHAK HASTERT

A LAW CORPORATION

February 24, 2012

The Honorable Rosalyn Baker  
State Senate  
415 South Beretania Street  
Hawaii State Capital, Room 230  
Honolulu, Hawaii 96813

Re: SB 2089

Dear Senator Baker:

We represent the Hawaii Vacation Rental Owners Association ("HVROA") in opposition to Senate Bill 2089, which purports to require non-resident owners of residential units to hire licensed property managers when renting their homes.

Bill 2089 is patently unconstitutional discrimination against non-resident property owners by the State of Hawai'i, in violation of the United States Constitution. The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses. It is well-settled law that the right to own and dispose of privately-held property is a "fundamental right" for purposes of the Constitution. *Daly v. Harris*, 215 F. Supp. 2d 1098, 1101 (D. Haw. 2002) (Honolulu's Hanauma Bay non-resident fee ordinance). Under the Equal Protection and Privileges and Immunities Clauses, discrimination on the basis of residency is reviewed under strict scrutiny. The statute is unconstitutional if it is not necessary to further a compelling state interest. *Walsh v. City and County of Honolulu*, 460 F. Supp. 2d 1207 (granting injunction against Hawai'i's residency requirements). In fact, the Hawai'i Supreme Court has held that Hawai'i's durational residency requirement "exists without a rational basis." *Yorky. State*, 53 Haw. 557, 561 (1972). Likewise, under the Commerce Clause, the inquiry is whether the law regulates evenhandedly with only incidental effects on interstate commerce, or whether it discriminates against interstate commerce, which means different treatment of in-state and out-of-state economic interests. "If a restriction on commerce is discriminatory, it is virtually per se invalid." *Barber v. State of Hawai'i*, 42 F.3d 1185, 1194 (9th Cir. 1994).

Under any analysis, SB 2809 will not pass constitutional muster. Laws requiring the payment of transient accommodation tax already exist. Taxes are paid, or not paid, by residents and non-residents alike. The Bill has absolutely no purpose other than to significantly increase the cost of owning and renting property for nonresidents. In addition to these insurmountable constitutional infirmities, the Bill has many other fatal flaws. It impermissibly infringes on the four Counties' home rule powers, each of which can differently define transient accommodations for purposes of their zoning laws. In addition, property owners are statutorily exempt from using a

licensed realtor when renting their own property.  
Forthe foregoing reasons, and others, HVROA respectfully requests that  
SB 2809 not be passed.

cc: Ms. Angie Larson

Very truly yours,  
DAMON KEY LEONG KUPCHAKHASTERT

Gregory W. Kugl

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Valori Egan  
Organization: Individual  
E-mail: [Jandvfromkuleana@gmail.com](mailto:Jandvfromkuleana@gmail.com)  
Submitted on: 3/9/2012

Comments:

Why don't you make it impossible for non residents to buy at all?  
You can sit around and look at all the property tax you are missing.  
You can watch your property prices decline.  
Say goodbye to the jobs that non resident owners generate for  
maintenance and cleaning etc.  
Get creative...there are many more effective ways to regulate taxation  
than imposing 25-40% realtor fees on strapped offshore owners.  
I will withhold my vote from any member who votes for this bill.  
Valori Egan

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: John Egan  
Organization: Individual  
E-mail: [Johnegan467@aol.com](mailto:Johnegan467@aol.com)  
Submitted on: 3/9/2012

Comments:

Why don't you make it impossible for non residents to buy at all?  
You can sit around and look at all the property tax you are missing.  
You can watch your property prices decline.  
Say goodbye to the jobs that non resident owners generate for  
maintenance and cleaning etc.  
Get creative...there are many more effective ways to regulate taxation  
than imposing 25-40% realtor fees on strapped offshore owners.  
I will withhold my vote from any member who votes for this bill.  
John Egan

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim Egan

Organization: Individual

E-mail: [jim@eganinc.com](mailto:jim@eganinc.com)

Submitted on: 3/9/2012

Comments:

Read about my strong opposition to SB2089

Many years ago I had enlisted two Realty/Vacation rental companies on Maui to manage and market my vacation rental condos. They were expensive, inept, undependable, and provided so little taxable income that I was forced to take on the marketing and managing of my three Maui condos myself. As a result, I've been renting my two units at Lahaina Shores Beach Resort and one unit at Maui Vista In Kihei through the internet for over ten years via the internet and have paid substantial GE and TAT taxes regularly and on time.

I do not see any potential benefit to the state, or to any entity except the realtors on Maui by interjecting a Realtor into the vacation rental market. Having a Realtor's license does not qualify them as marketing or advertising professionals. (It's been my lifetime profession.)

First of all I'd have to question the qualifications of a "real estate broker or salesperson to collect rent" on my behalf and how this would be implemented. This smacks of an attempt to force an "unwanted partner" on me who would provably drain rather than enhance my already thin resources as a result of this economy. (See my first paragraph.) This just adds another wedge to the business pie that is already sliced into many pieces. It would be detrimental to conducting business, would raise rates, reduce incentive, reduce bookings, reduce profits, reduce taxes, and as a result would reduce property values even further. And would result in many properties being put up for sale just to get out from under these oppressive constrictions.

Please look closely at the bigger picture while considering SB2089. As the saying goes, every decision automatically invokes the law of unintended consequences.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Thomas J. Elardo

Organization: Individual

E-mail: [painfulfeet1@gmail.com](mailto:painfulfeet1@gmail.com)

Submitted on: 3/9/2012

Comments:

Please do not support SB2089. This will severely restrict the ability of property owners to provide an adequate and quality experience for their guests. When realtors are in charge of the rental of the unit the quality of the experience will go down as this is not their forte. There is no merit to allowing a realtor to act as a property manager. With over 700 pieces opposing this legislation in the Senate it still passed for unknown reasons.

It will further force the sale of many condo units on the island further adding to the real estate crisis. My long term guess on this issue is the economy of the island will suffer due to a reduction in tourism

My recommendation is for a public campaign to raise awareness about the issue of paying taxes on the rental income instead of forcing this down our throats.

Gordon Fall M. D.

9 March, 2012

Re: SB2089-SD1

Dear Representative Members of the Hawaii House of Representatives Tourism Committee:

I understand the need to collect both TA and GE taxes for all short term rentals in Hawaii. Have you solicited input from the independent renters in the State of Hawaii? This bill would cost owners dearly, from 20 to 40% of their rental income. For my one unit I would have to pay at least \$30,000 a year in commissions to a realtor and I would lose much of the control in choosing guests. This bill is merely a financial windfall to the realtors. Because many owners would chose not to rent or sell their unit rather than rent it through a realtor, and the prices of rentals will go up dramatically you may well lose availability of many vacation rentals and reduce the number of visitors coming to Hawaii. Visitors have choice and this bill may result in the State collecting less TA and GE tax. I have been renting privately for more than 25 years and I have always paid my TA and GE taxes.

There has to be a less onerous way to enforce collection of taxes which is what I understand is the goal of this bill. Work with the rental industry especially the private rental market not just the realtors to come to a less onerous solution. This bill is the epitome of government interference. **Please vote no on SB2089-SD1.**

See this as it is: a money grab by the Hawaii Realty Management companies.

Sincerely,

Gordon Fall, owner

Unit 1252, The Whaler on Kaanapali Beach

Maui, Hawaii



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kent Field

Organization: Individual

E-mail: [kentkamaole@gmail.com](mailto:kentkamaole@gmail.com)

Submitted on: 3/9/2012

Comments:

Having a licensed real estate or salesperson a requirement for non-resident owners will not improve the vacation rental experience for the visitors to Hawaii. It takes money away from owners and will be a heartship on some requiring them to sell their condo and harming the financial state of Hawaii. This bill does nothing more than put money in realtors pockets.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Robert Floyd  
Organization: Individual  
E-mail: [bnefloyd@san.rr.com](mailto:bnefloyd@san.rr.com)  
Submitted on: 3/9/2012

Comments:

As long time (25 years) property owners in Hawaii we oppose this proposed law which we feel will severely impact the tourist industry in Hawaii. We have paid our GE and TA taxes each year and will continue to do so, but we feel that it is an unnecessary expense to go through a middleman on island. This added expense will of course be passed on to our guests, who may decide to visit some other vacation destination in lieu of Hawaii and spend their money there!. We do not think that this is what you have in mind.

Please let us continue to rent our condo as we have in the past, giving each rentor the personal attention that they want and deserve. Please do go after those individuals who do not pay their taxes, but please let those of us that do pay their taxes continue to operate as we do now.

Thank you for your consideration,  
Robert and Eileen Floyd  
[bnefloyd@san.rr.com](mailto:bnefloyd@san.rr.com)  
Tax No. W30373830-01

**From:** M & S Blancaflor [mailto:[blancaflor@cox.net](mailto:blancaflor@cox.net)]

**Sent:** Friday, March 09, 2012 2:32 PM

**To:** TOUtestimony

**Subject:** Opposing SB 2089 SD1 Amended

Please see my attached letter regarding the above referenced proposed Bill.

Mahalo

Shirley and Millard Blancaflor

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Ted Franse  
Organization: Individual  
E-mail: [tedfranse@yahoo.com](mailto:tedfranse@yahoo.com)  
Submitted on: 3/9/2012

Comments:

Are you crazy? You will out me into Bankruptcy. I already can't make my 2 properties cash-flow. And I already pay my taxes, and you now want me to pocket about \$15 bucks a day for two \$600k properties? YOU are nuts. And you want a Realtor to take charge of MY money? They are all starving. You really think they will not keep our money? After the taxes I already pay, plus fees to a Realtor, and of course I would be 100% dependant that they will even bother to book my properties. I will go broke. Don't spend tax money like it's going out of style, and you wouldn't be looking to do such a STUPID idea, here.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: jerry frazee

Organization: Individual

E-mail: [jerry@frazeeeco.com](mailto:jerry@frazeeeco.com)

Submitted on: 3/9/2012

Comments:

This is not necessary. Honest people pay the taxes. Dishonest people will continue to not charge the tax or keep the tax regardless of the law. This bill will raise my rental cost by 30-40%. Resort managers sponsored this and will benefit from it.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sherry Fuller

Organization: Individual

E-mail: [sfuller123@hotmail.com](mailto:sfuller123@hotmail.com)

Submitted on: 3/9/2012

Comments:

I oppose having to rent via a management agency, as a traveler I like to rent directly from owners and save money. I have had very successful experiences with VRBO and appreciate being able to review others comments on properties in order to make informed decisions. Please do not limit personal rights with this type of proposed legislation.

Dear Legislature:

I am opposed to **HB2089**. The bill appears to be written in an effort to give Hawaii Real Estate and Property Management companies financial gains and control over vacation rental pricing and competition. The wording in HB2089 unjustly imposes governmental restrictions on non-resident owners of transient accommodations, strictly for the advantage and economic benefit of a specific targeted commercial industry.

I have purchased several units over the years and pay Hawaii taxes through a private firm who pays, records, documents, and calculates my tax obligations to the State of Hawaii. I have an assigned agent who is available 24 hrs per day and responds to all and any issues regarding my vacation rentals. Our units are popular and are booked months to years in advance because we meet or exceed the needs of each and every one of our traveling guests.

Under this legislation, you are punishing property owners who diligently have complied with the tax and excise laws of this state. It may also force the termination of assigned managers, housekeeping personnel, maintenance personnel and potentially lead owners of transient accommodations into foreclosure.

I would encourage a change or revision to this legislation in a manner which would protect the fundamental rights of both residential and non-residential owners who have complied with the tax laws and who have created jobs for local people as contact managers, housekeepers, and maintenance workers, while at the same time, identify and correct non-complying owners, regardless if they are a resident or non-resident.

I would recommend the following changes in the reading of this bill

- Any **resident or** non-resident owner who rents or offers rental property as a transient accommodation for periods of thirty days or less **who is found in violation of the excise or transient accommodation tax requirements may by a preponderance of facts by the Director of Taxation be directed to** rent or offer to rent property through a real estate broker or salesperson licensed under chapter 467 **for a period of time to be determined by the Director.** Any real estate broker or salesperson authorized under an agreement with a **resident or** nonresident owner to collect rent on behalf of the **resident or** nonresident owner shall be subject to the requirements or section 237-30.5, 237D-6 and 237-8.5.
- Any resident or nonresident owner subject to subsection (a) that does not comply with the requirements of this section shall be notified in writing by the department of taxation of the noncompliance and of the need to take corrective action within seven **business** days of the receipt of notification. If the noncompliance continues for longer than seven **business** days after notifications, the **resident or** nonresident owner shall be fined not more than \$1,000 per day for each day of noncompliance.

- For the purpose of this section:

"Nonresident owner" means an owner of a rental property in the state who resides on a different island from the property or out-of state and who rents or leases property to a tenant.

**"Resident owner" is one who resides on the island to which the rental property is located**

"Rental property" means a residential single-family dwelling, apartment, or townhouse, owned by a resident or nonresident owner.

Section 2 "No change"

Section 3 "No change"

Section 4 "No change"

Thank you,

John Gablehouse, Owner

360-629-3503

[jag1@wavecable.com](mailto:jag1@wavecable.com)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Patricia Gablehouse

Organization: Individual

E-mail: [imablessing@gmail.com](mailto:imablessing@gmail.com)

Comments:

We have always paid taxes and this would create a hardship financially for us as non-residents. Please help us Hawaii, and oppose this law.

My name is Patricia Gablehouse **and I am opposed to SB 2089.**

My husband and I own two condominiums for which I manage both of them and we pay our State transient taxes in a timely and efficient manner through HotSpot Tax Service, an independent company, for a cost of \$12 a month.

Proposed Legislation should focus on those individuals who do not pay the proper transient taxes to the State of Hawaii and not penalize and place restrictions on those who have invested and comply with Hawaii Tax requirements.

We currently have a resident in Hawaii identified as our point of contact person and she does an excellent job responding to guest's needs. In addition, we have an onsite General Manager who also is available and helps in emergencies.

To my understanding, this legislation targets only non-resident owners and requires them to go through a state approved real-estate company/agent to manage personal units in hopes of collecting additional tax revenues. To comply with this legislation it will cost 20 to 40 percent of our gross annual rental income and create an unfair financial expenditure that may cause me to fall short of meeting monthly mortgage payments, which would eventually force me into foreclosure. We are currently upside down on the value of one condominium but continue to make the payments through rental income in hopes of holding on until the housing market stabilizes and it returns to its original purchase value.

*This legislation will only result in rising tourist lodging fees; reduced condominium purchases by out-of-state investors and lower tax collections from those who elect to withdraw units from the transient accommodation market due to costly management fees and over- restrictive legislation. Thus causing a reduction in tourism which in turn would hurt the economy of the Big Island of Hawaii.*

With Condominium values dropping and proposed legislation like this, the Hawaiian Dream is turning into the Paradise Nightmare. We are just average Americans trying to hang on to our investment until my husband retires from 40 years with the fire department. Our plan was to do vacation rental in our unit until we can retire here. We have ALWAYS paid our taxes, and have NEVER been late. Why punish the good with the bad?

Again I am **opposing SB 2089** and would ask you to vote against the implementation of this legislation.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Danielle Gall

Organization: Individual

E-mail: [danielle\\_gall@homedepot.com](mailto:danielle_gall@homedepot.com)

Submitted on: 3/9/2012

Comments:

Dear Tourism Committee and State Legislators:

We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws. However, we request you oppose the passage of SB2089 SD1 and vote no, allowing for further discussion and analysis.

We appreciate that the Amended Bill has included a provision for exemption by obtaining a "tax clearance" from the Tax Department to be transmitted to the real estate commission. The Bill, however, does not establish what the criteria would be for granting the "tax clearance" or the timeliness of the Tax Department to provide the tax exemption. We fear the Tax Department will be overly burdened with requests causing delays, which would result in noncompliance. There are times when the Tax Department takes up to two months to provide a requested tax identification number, so one can reasonably expect there would be many delays in obtaining a "tax clearance." Additionally, we do not know how we would comply with the requirement of Federal Form 990 being transmitted to the Real Estate Commission. Form 990 is for "Return of Organization Exempt From Income Tax." The annual requirement of obtaining the tax clearance may prove to be an obstacle to compliance that burdens only nonresident owners.

If the Legislature is inclined to pass this Bill, we request that the resident owners also be required to comply as there does not seem to be an inherent justification for only burdening nonresident owners with all of the requirements in this Bill. As the Attorney General suggested, "... under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents. We would therefore request that all who provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill SB2089 HD1 is based on the premise that nonresident owners do not comply with tax requirements. In the absence of new studies as the Attorney General suggests, it is reasonable to rely upon the last studies performed by the Hawaii Tourism Authority. In 2007 the Tax Department in Testimony stated:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."

2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."

3. "The Department does not believe there is substantial non-compliance with tax obligations."

Section (a) Makes requirement of compliance only on nonresident owners (if one does not obtain a tax clearance) that it does not impose on resident owners. Further, in the circumstance of a nonresident owner who owns property in a condominium hotel they "shall employ a condominium hotel operator ..." This means that one subsection of nonresident owner is even further restricted and can ONLY hire a condominium hotel operator and no other. This seems to be unnecessarily limiting to free choice of whom to engage in the service of property management.

Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island. This further incurs additional costs in advertising (when one must pay by the line) that it does to the resident owner.

We, as nonresident owners, seek to comply with the laws and pay taxes as required. This Bill however, will put many more layers of operational compliance on nonresident owners than it does on resident owners.

The Hawaii's Tourism Authority states in their testimony of 2/2/12 regarding this Bill, "Chapter 237D already provides for penalties for engaging or continuing in the business without registering as required by the law." Additionally, the Department of Tax on 2/2/12 states the need for "increase education. ..."

Again we ask you to vote no or defer the passage of SB2089 SD1. We believe that a greater focus of awareness of the laws would bring about increased compliance. We offer the following suggestions:

Educate by Notice: It should contain language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.

Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice. Every property owner receives a property tax bills. The Notice should be enclosed in the mailing of the tax bills. The result would be EVERY OWNER WOULD RECEIVE NOTICE OF REQUIRED GE AND TA TAX COMPLIANCE AND STATE TAX RETURN. There would not be one property owner in the State of Hawaii who did not receive the information that they must comply if they rent transient accommodations. In conjunction with a higher level of educational outreach, the State of Hawaii may receive a substantial amount of back due taxes by offering an amnesty program to all noncompliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

Mahalo.

February 14<sup>th</sup> 2012

Re: SB 2089 and HB 1707

I have read both Bills and the amendment to Bill 1707 and I am astounded and appalled that the Hawaiian Legislative Branches are considering passing these Bills.

After reading the submissions to the legislators it is clear where the battle lines are drawn and who stands to benefit. Both the Hawaiian Association of Realtors and The Hawaiian Real Estate Commission have come out against these Bills as well as The Hawai'i Tourism Bureau noting that there are already laws in place regarding the collection and remitting of GET and TAT taxes and finding that these Bills are overkill. The other side has a very strong contingent of Rental Property Managers. These Rental Property Managers trot out the contention that millions of dollars in GET and TAT are being collected but not remitted by scofflaw owners or even worse, not collected in the first place. This flies in the face of the most recent audit of GET and TAT which found that a vast majority of owners were in compliance. What is really at issue for the Rental Property Managers is the fact the Vacation Rentals By Owner and other similar business models are putting downward pressure on their ability to charge 30/45 % to manage a person's vacation rental. By legislating away the rights of owners to manage their own properties this legislation will hurt tourism. Who will end up paying a portion of the increased cost brought on by the monopoly the Rental Property Managers will enjoy and the fees they charge? The consumer is who! When you increase costs and prices you lessen demand which will have a negative impact on tourism in general and Hawaii as a whole.

Do I have a vested interest? You bet! But so do most Hawaiians! If you are an investor, say a Hawaiian who lives on Oahu but has a vacation rental on Maui your rights as an owner are about to be abridged. If you are an investor from the US mainland or a foreign investor you also lose as it will now cost 30 to 45% more to have your rental property. If you are a Hawaiian developer and hope to sell your finished properties to investors, your offering now makes less sense to investors which will cost you sales, increase the time you take to sell your property and make you think twice about starting a project in the first place. If you own Hawaiian real estate you will also notice a further softening in your values as the removal of many investors from the equation will hurt all property values ( as if the last few years weren't hard enough). If you are a Hawaiian tax payer these Bills will have very little upside but they will definitely hurt the economy. And lastly, if you are a consumer and the cost of a vacation rental has now increased you also suffer so you may shorten your stay or you may vacation elsewhere. Once again, who wins? Oh yes, the Rental Property Manager.

Many jurisdictions such as Arizona, Nevada, California and Florida are welcoming investors and have seen investors help stem, to some degree, the blood bath of the mortgage meltdown and subsequent market collapse. In a similar vein the US Federal Government is looking to bring in a provision that provides for an extended stay residential visa ( a non employment visa) for people that invest more than \$600,000 in US residential real estate. It appears that the only individuals that are looking to limit the scope of ownership for investors in the United States are to be found in the Hawaiian Senate and House of Representatives. So you have 49 states open for business, Hawaii not so much.

There is no question that GET and TAT need to be collected and paid. While there are laws in place to deal with collection and filing there could also be provisions put in place that would require owners to post their business license or tax number in their advertising which would allow for greater accountability.

As stated in the Real Estate Commission's submission to the Legislature Feb 2<sup>nd</sup> 2012

This bill

“creates an unnecessary but new specialized license of property managers within the real estate licensing statute of Chapter 467, Hawaii Revised Statutes ("HRS");

- changes the legislative policy set forth in the exceptions to the real estate licensing statute that an individual, i.e., a natural person and not an entity, who, as an owner of any real estate, may handle the management and

**sale of their own real estate without a real estate license or without retaining a real estate licensee (§467-2 (1), HRS); and**

- **creates ambiguity with a current regulated area of condominium hotel operators as set forth in §467-30, HRS.**

As for my vested interest, I have a rental condominium in Ka'anapali, I have a business license, I file Federal and State taxes and I collect and remit GET and TAT. I am considered a foreign investor and I will be taxed higher, both in income tax, property tax and in future capital gains tax. I knew and accepted these realities before making my investment decision. Bills SB 2089 and HB 1707 are happening “after the fact” and as such were unforeseen as no other jurisdiction has sought to fetter private home ownership in this way. I am in negotiations to purchase a second vacation rental in Maui but these changes to the personal ownership rules have me considering other options. I have been in touch with at least one other who is planning to collapse their conditional sale rather than deal with both the increased cost of ownership and the potential capital losses that these Bills would engender.

I have managed my own property using the likes of VRBO and Homeaway and I hire Hawaiian residents for all my rental needs. I have a long list of happy renters from Hawaii, the mainland, Australia, Canada, Japan and the UK. My rental rates are reasonable and I provide a cost effective alternative to Hotel fees. I furnish my rental with many extras that the hotels don't and my renters value the difference. I believe as an owner you should have a choice, the owner benefits, the consumer benefits and the State benefits.

Mahalo,

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Terry Gardiner  
Organization: Individual  
E-mail: [tgardiner@intergate.ca](mailto:tgardiner@intergate.ca)

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Terry Gardiner  
Organization: Individual  
E-mail: [tgardiner@intergate.ca](mailto:tgardiner@intergate.ca)  
Submitted on: 3/9/2012

# **Business in Vancouver**

**Feb 21<sup>st</sup> 2012**

## **Real estate roundup: Peter Mitham**

### **Trouble in paradise: investor storm brews over proposed Hawaiian legislation;**

Vancouver investors are speaking out regarding a move by Hawaii's legislature to nix self-management of vacation properties in the state.

Bills before both houses of the state legislature would require investors to contract out management of properties for fees that range between 25% and 45% of property revenues. The bill's ostensible goal is to curb alleged tax evasion, but investors such as North Vancouver real estate agent Terry Gardiner say the proposed legislation would limit investors' freedom to choose how they manage their properties.

Gardiner bought a one-bedroom unit in Honua Kai, a development by Intrawest spinoff Playground Destination Properties Inc. just outside the town of Lahaina on Maui in 2011. Weighing his options between Intrawest's rental program, which would take 45% of his revenue and local options that would charge between 25% and 35%, Gardiner opted to manage the suite himself. Rentals are arranged through Vacation Rental by Owner, a service operated by Texas-based HomeAway.com Inc. Contractors in Hawaii service the suite for him. Gardiner is licensed as a business in the state and pays his taxes regularly. And he doesn't see why he should have to pay someone else to do everything he's already doing.

"What these laws will do is force me to use a property manager in the state of Hawaii," he said. "I'll have to start budgeting for 35% to 45% to come off the top, which at the time I made this investment decision was not even in the wind."

Bills before the state legislature define "nonresident owners" as any owner "who resides on a different island from the property or out-of-state and who rents or leases the property to a tenant."

A review of the legislation by a state senate committee notes that regardless of the tax implications, the lack of a licensed property management company overseeing suites leaves "guests vulnerable in the case of emergencies or natural disasters."

But Gardiner isn't buying it, especially given efforts by the U.S. Congress to introduce a visa that would allow investors buying \$600,000 or more in real estate to spend more time in the country. Hawaii, by contrast, seems to be discouraging investment.

“Can you imagine if they brought in a bill in Vancouver that said you had to use a realtor and MLS to sell your property, that you couldn’t go for sale by owner?” Gardiner asks. “It’s ridiculous. This is the same thing.”

Many investors in Honua Kai and other Maui vacation spots hail from Vancouver, and Gardiner believes the little-known legislative measure could have a significant impact. He is holding off on further investments in Honua Kai until the state decides what it’s going to do.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Dennis Garlock

Organization: Individual

E-mail: [dgarlock@mauibeachbums.com](mailto:dgarlock@mauibeachbums.com)

Submitted on: 3/9/2012

Comments:

This bill is an obvious attempt by real estate management companies to monopolize the tourist industry and shut out individual owners. This is going backwards to days before the internet.

The other group is those who are against neighborhood TVA's in any way, shape or form.

Why only off island owners? This is wrong and discriminatory. It also probably will not pass constitutional muster. There will be lawsuits.

The effect if this bill becomes law will most likely be quite the opposite of the intent. Unintended consequences. Remember what happened a year or so ago when a law was passed to rein in lenders. Now the courts are clogged with repossession cases. Unable to pay the high prices for Hawaii real estate through rentals, more property will flood the market, lowering market and tax values, in turn lowering revenues. This will, no doubt, disrupt the tourist industry in Hawaii, causing less tourist dollars spent, thereby lowering revenues. This also affects businesses who depend on the tourist industry. Other sources go into the detail of how this will happen.

I own several condos in a condo hotel, pay my taxes and have on-island agents to take care of any problems, as do all of the owners that I am aware of. Most, live out of state.

Maui is going in the right direction to regulate neighborhood tva's. I suggest that Oahu follow Maui's lead instead of supporting this misguided legislation.

If gaining lost revenue is the real purpose of this legislation, then I suggest that there are more efficient ways to go about accomplishing this.

Mahalo for the opportunity to put my two cents in.

Dennis Garlock  
Salem, OR

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Billie Garrow

Organization: Individual

E-mail: [mauiboss1@yahoo.com](mailto:mauiboss1@yahoo.com)

Submitted on: 3/9/2012

Comments:

I strongly oppose SB2089. I have been managing my condo in Maui for three years, from my home in Nevada. I keep impeccable records and I pay my GET and TAT, as well as Hawai'i state taxes, accurately and on time. I used a property manager for several years, and found that they were dishonest, and difficult to work with. Since I have been self-managing, my Hawai'i home has not had any thefts or damage. Please allow those of us who choose to self-manage to continue to do so.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Deborah Geeseman  
Organization: Individual  
E-mail: [kumuna@alaska.net](mailto:kumuna@alaska.net)  
Submitted on: 3/9/2012  
To State of Hawaii regarding SB 2089

I am an Alaskan resident who fell in love with the Puna area. I purposely designed and built a house there to rent out as a vacation rental and to have for my personal use in the future. By doing so, initially I provided employment for the people involved in the construction. Now I provide employment for my manager, housekeepers, and various other necessary trades.

I have faithfully paid my Hawaiian GE and TAT taxes since I opened my business. I have filed yearly Hawaii state non-resident tax forms since I opened my business. I am a small, 1-home vacation rental business, and am considered an "active participant" in my operation according to IRS classification.

If SB 2089 passes, I will not be able to keep my home as a vacation rental. It will force me to close my business. Real estate managers charge a much higher rate (though all inclusive) AND it will change my IRS classification to "passive"; any income gained would be "passive income" and I would lose many of my deductions for the operation. The combined increase cost for management and the decrease in tax write-off would make this business venture very unprofitable.

If the problem comes from property owners who are renting their houses without paying taxes, then ENFORCE EXISTING LEGISLATION and shut down or fine those who are not in compliance with the law. I do not see how shutting down operations like mine will benefit the state in any way. It will put several people out of a job and limit the options available for tourism.

I strongly oppose SB2089 which allows big business to take over small private enterprise. If it passes, I will be one business that will cease to exist. Then I will no longer be providing the state of Hawaii with monies for 'bed' taxes nor employment for local workers. PLEASE VOTE AGAINST SB2089.

Mahalo.

Deborah B Geeseman

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Hattie Gerrish

Organization: Individual

E-mail: [gerrish@hawaii.edu](mailto:gerrish@hawaii.edu)

Submitted on: 3/9/2012

Comments:

I am opposed to this bill because I think it is unconstitutional and unfair to require nonresident transient accommodation owners to employ realtors as property managers. Property owners have the right to choose whom they will employ to manage their property or choose to manage it themselves. There is no reason why a licensed real estate broker or sales person would make a better property manager than any other individual. Some owners prefer to manage their property from afar via the internet. A property manager would be too expensive for small rental businesses and would not necessarily have the best interests of the business or the owner at heart.

This bill will also make tourism in Hawai'i more expensive and drive tourists away from Hawai'i. Since the 2008 housing market crash, many owners depend on rental income to pay mortgages. If this bill passes, many owners will not be able to afford to hire a realtor and will have to sell their Hawaiian property, flooding the market and destroying recovering housing prices. As accommodation rates in Hawai'i (already high) are driven up, and fewer tourists can afford to come to Hawai'i, resident and nonresident owners alike will lose income. Property managers, house cleaners, and grounds keepers will also have less work. Fewer tourists will cause the entire tourism industry to suffer. Fewer rentals will generate less tax revenue for the state.

I am a Hawai'i-born young adult working my way through college on what I make from working as a property manager for a friend. I love my job and I love having a job. I enjoy trying to make my rental a success and making it an enjoyable place to stay. I will lose my job if this bill passes. Please consider all the people this counter-productive and unfair bill will impact before you vote for it.

**From:** Justin Gilliland [mailto:[justin@gnetworkland.com](mailto:justin@gnetworkland.com)]

**Sent:** Friday, March 09, 2012 2:46 PM

**To:** TOUTestimony

**Subject:** Opposed to Bill SB2089 SD1

This bill will create financial harm to property owners, the economy, and tourists.

Justin Gilliland

Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: alice glasser

Organization: Individual

E-mail: [alicejglasser@gmail.com](mailto:alicejglasser@gmail.com)

Submitted on: 3/9/2012

Comments:

I oppose 2089. I have rented from owners and managers for over 20 years have always paid tax in both situations. However condos rented by the owners are always in superior condition and cost less-we have had problems renting from managers never from an owner!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Joel goldman

Organization: Individual

E-mail: [donutking1@gmx.com](mailto:donutking1@gmx.com)

Submitted on: 3/10/2012

Comments:

this bill appears discriminatory against non resident owners, does not address ways to avoid the extra costs associated with mandating having an on island agent, and does not provide detail,s of who is responsible for payment of taxes. It also favors one group of people, realtors, to manage another persons property. What happens when rental income drops drastically as this new paradigm means less rentals. In reality it will cause less tax income and lower housing prices as more owners sell. Please reject this bill.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Allen Gray

Organization: Individual

E-mail: [Allenstephengray@gmail.com](mailto:Allenstephengray@gmail.com)

Submitted on: 3/9/2012

Comments:

Please allow an exception on the short-term rental bill for an owner of a condo paying a friend to rent our Maui condo when we are not using it, ( like my wife and I do) or our friends who pay a neighbor to rent their Maui condo. If you force us to use a rental agent, we and our neighbors will be forced to sell our Maui units. We have been coming to Maui for 37 years.

An individual renting their own unit plus one more should be excluded.

Thank you so much,

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Support

Testifier will be present: No

Submitted by: Edward Greaney

Organization: Individual

E-mail: [maunawilimac@me.com](mailto:maunawilimac@me.com)

Submitted on: 3/9/2012

Comments:

Please support this well-crafted bill to stem the loss of tax revenue for the state and curb the illegal visitor traffic detrimental to legal tourism and residential zoning.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Duke Greschok

Organization: Individual

E-mail: [dukegreschok@hotmail.com](mailto:dukegreschok@hotmail.com)

Submitted on: 3/9/2012

Comments:

SB 2089 Testimony

I, Duke Greschok, strongly oppose this measure because it will only benefit the Property Managers and negatively impact tourism. Property Managers charge 40-50% for their services that will cause owners to either increase their rates by the same margin or take an additional 50% hit against their bottom line. Since rental clients will not be willing to pay the increase owners like me who are barely holding their head above water will lose 40-50% of their profit and go into foreclosure. In the last 5 years prices have dropped significantly and renters dropped in half. With that bleak news I am sure many owners have chosen to manage their own properties and not go through a Property Management Company. However this measure will not increase revenue to the State if the properties don't get rented and/or the owners are making no profit because it is all going to the Management firm.

I have always collected, reported and remitted my Transient and Excise Tax payments to the State of Hawaii on time. Don't punish the law abiding owners who pay their taxes on time with a law that will decrease revenues to the State because of a few tax cheaters.



**From:** Richard Griffin [mailto:grifcomm@att.net]  
**Sent:** Friday, March 09, 2012 6:19 PM  
**To:** TOUtestimony  
**Subject:** Opposed to 2089 SD1 as a Tourist

Sirs:

This is a short-sighted law which will not accomplish anything but more damage to the tourist and real estate markets. We have used direct contact with owners for 9 years now and it is the **ONLY** way we have found to be effective and economical for us as tourists. Going to the owner allows us to come to the island every year and thereby spend thousands of dollars into the local economy.

Please leave well enough alone!  
Richard & Stacy Griffin  
27 Clarke Court  
Sharon, MA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Robert Grosse

Organization: Individual

E-mail: [cgrosse@charter.net](mailto:cgrosse@charter.net)

Submitted on: 3/9/2012

Comments:

With regard to SB2089, I submit that the proposes bill, if approved, will act against the best interest of the people of Hawaii by increasing the cost of short-term rentals throughout the Islands and will also result in unforeseen costs of implementation and record processing particularly by the Department of Taxation. I urge you to consider the bill carefully and vote against it. Thank you, Robert G. Grosse

1369 San Marcos Ct  
San Luis Obispo CA 93401  
Property Owner in Maui

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jane & Rick Hallding

Organization: Individual

E-mail: [hallding@telus.net](mailto:hallding@telus.net)

Submitted on: 3/9/2012

Comments:

March 9, 2012

#### OPPOSING SB 2089

We are writing this letter of concern regarding SB 2089 and OPPOSED to it becoming law. This bill has the interest of many taxpaying vacation rental owners and a body of realtors/property management companies.

Today's economy is fragile to say the least.

If SB 2089 is passed, it will have a devastating result for the real estate market as well as rental owners who may be forced to sell. The potential for a massive "FOR SALE BY OWNER" is very possible, just as we are seeing some positive improvement in the local economy. Owners will be forced to have their property managed through a licensed realtor/property manager at a huge expense by way of income reduction to the taxpaying owner.

The economy will take a further hit due to the above.

WE OPERATE UNDER EXISTING LEGISLATION AND FEEL IT IS UNCONSTITUTIONAL AND DISCRIMINATING TO PENALIZE THOSE WHO ABIDE BY THE LAW

- We have a General Excise Tax license and a Transient Accommodation Tax Certificate of Registration
- We collect and pay GET, TAT and Property Taxes on Vacation Rental Property
- We employ an on-Island Accountant, cleaning service and various trades
- We are self-appointed ambassadors of Tourism for the State of Hawai'i

It is for these reasons we have a vested interest in the opposition to this bill. We did not invest our hard earned money in Hawai'i, to become a "silent partner", by turning our investment over to a third party who has no financial contribution or personal interest in our investment.

THIS BILL IS UNCONSTITUTIONAL AND DISCRIMINATORY.

We strongly urge you to consider these concerns and OPPOSE this bill!!!!

Thank you for your attention to this matter,

Respectfully your tax paying property owners of the county of Maui

Rick & Jane Hallding, Kihei Alii Kai

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Fred Hall

Organization: Individual

E-mail: [hallscondo@sbcglobal.net](mailto:hallscondo@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

We will not be able to keep our condo in Maui if this bill passes. The law is unconstitutional as it targets non-residents over residents. tourism is back this law will have a devastating effect on it. thousands of off island owners will lose their properties.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Neal Halstead

Organization: Individual

E-mail: [nealhalstead@yahoo.ca](mailto:nealhalstead@yahoo.ca)

Submitted on: 3/9/2012

Comments:

Hello.

I am a proud owner of a condominium in Maui that I rent out to guests when I am not on-island.

I am proud to support Maui tourism, proud to say that I collect and remit all my taxes and file all of my returns on time. I employ Hawaiian residents to look after my guests.

However, putting the real estate industry in the position of regulating the non resident owners, a group the real estate industry views as being their competition, makes little sense.

Inserting a notional property manager into the small business I have and legally operate is serves only to divert income from me, who invested the capital, to someone who has a passive interest in my success.

The mechanism for allowing owners such as myself to opt out of the property manager solution is flawed. First, form 990 is a form for not-for-profit organizations. Second, the real estate industry is given sole power to accept or reject my application. Since they, as a group, stand to profit by rejecting my application, there is no reason to believe this legislation will be carried out equitably.

While the principles behind the bill might be sound, the Bill is deeply flawed and must be rejected.

There is a wealth of data which can be mined by the department of taxation compliance officers. The department of taxation can reference property tax rolls, condominium management company can provide owner lists, the IRS can provide Hawaii rental income disclosures, VRBO can provide owner information.

Inserting the real estate industry is not as powerful a tool as any of those data sources could be.

Yours truly,

Neal Halstead  
162 Patrick View SW  
Calgary, AB,  
Canada T3H 3B1

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Phillip and Bonnie Hassett

Organization: Individual

E-mail: [bonnie@ourmaui getaway.com](mailto:bonnie@ourmaui getaway.com)

Submitted on: 3/9/2012

Comments:

We are OPPOSED to SB2089. We have owned and operated a vacation condo on Maui for 6 years, and consistently charge for and pay to the state of Hawaii, all required GET and TAT taxes. We use local companies to manage and clean the property for each and every guest. To imply that because we live off Island we do not pay our fair share of taxes or operate illegally, is wrong. And to assume that anyone that lives on Island and rents property is in compliance, is probably wrong as well. Either fix the problem by enforcing existing tax laws, or change the laws and enforcement of them, for all rental owners, on or off island.

Mahalo,

Phillip and Bonnie Hassett

Lincoln, Ca.

Senators:

I owned a rental condo in Wailea for eight years and now reside in Kai Malu (Wailea/Kihei). The above-referenced legislation create huge barriers for people selling or purchasing a condo on Maui. Many rely on income from a condo to help finance retirement, maintain occupancy and upkeep and retain market value. If rental management companies with their high surcharges are the only rental option, revenue for owners will be diminished and tax revenues on these properties will fall.

Say NO to SD 2089D1 !!

Thank you.

Andrea K. Hayes

Patient Advocate

650.726.7749 (Home Office)

650.303.3940 (Cell)

650.560.9013 (Fax)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Richard & Diane Hayes

Organization: Individual

E-mail: [dickndiane@comcast.net](mailto:dickndiane@comcast.net)

Submitted on: 3/9/2012

Comments:

Bad Bill. Will create even more depression in the Maui economy. Will create mass sales of real estates by out of county owners. Real Estate market will DROP AGAIN.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Donald J. Healy

Organization: Individual

E-mail: [donhealy@pcmc.com](mailto:donhealy@pcmc.com)

Submitted on: 3/9/2012

Comments:

Dear House Representatives, we would like to express our opposition to SB2089. We feel it descriminates against non-residents. We support paying Hawaii tax but are strongly against Hawaii forcing us to hire a property manager that will then make it impossible for us to pay our bills. We tried the 5 years with property management and they have proved to be very unprofessional and greedy. The use of the internet and affordable vacation rental has greatly helped Hawaii survive the economic downturn by bringing in a whole new group of tourists who would never have been able to afford Hawaii. They do spend their money once here so Hawaii has benefited much including the taxes most all of us non-resisent owners pay. Not sure why you feel ONLY non-resident owners are dishonest. It would appear this law could be unconstitutional as it targets only non-residents.

We all purchased our properties with the presently laws in place and to force us into a situation for which many of us will loose our investments is very wrong and unfair. The big winners here are the management companies which I am sure are pouring lots of money into passing this. Haven't they contributed enough already to the amount of foreclosures on Hawaii?

First, the owners now who are presently in business renting privately should be grand fathered in somehow with an exemption that is clear and makes sense. Like I said we purchased with the present laws in place and to punish tax paying owners for some that do not pay taxes either because of not educated about the tax laws or dishonesty is not right. There would be tracking software available for this type of service and the Hawaii tax department should be pursueing this.

Please give this carefull consideration as it will not be good for tourism in Hawaii and start a whole new round of foreclosures along with falling home prices.

Thank you for your time....

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Janet Hoch

Organization: Individual

E-mail: [janethoch@yahoo.com](mailto:janethoch@yahoo.com)

Submitted on: 3/9/2012

Comments:

I support paying taxes, and always have paid mine, but I'm opposed to inserting property managers or realtors into the equation. I've always done this dutifully on my own and shouldn't be punished for such.

This law is unconstitutional as it targets non-residents instead of residents.

Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell - flooding the market and having a significant impact on tourism.

Property managers are the only ones to benefit from this law, everyone else loses!

The senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand.

We are strong ambassadors for Hawaii.

I'm in support of enforcing Hawaii's existing laws, rather than creating new ones.

Thank you for your time and consideration.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kenneth W. Hoehn

Organization: Individual

E-mail: [k8kwh@hotmail.com](mailto:k8kwh@hotmail.com)

Submitted on: 3/9/2012

Comments:

I am opposed to this legislation, as it is duplicative of existing law, unfairly oppressive to sector of owners, and punishes all vacation rental owners for the failure of a few to properly pay their taxes.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: James Honniball

Organization: Individual

E-mail: [jhonniball@sbcglobal.net](mailto:jhonniball@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

This bill is not fair to those who are paying the taxes...this bill will only increase cost to tourism to Hawaii and add additional overhead to the owners of the property. This bill will potentially decrease tourism to Hawaii which is the State's main business income.

In addition owner will not be struggling to find tourist rent there property due to unknowns from property managers etc.

Mahalo

OPPOSED TO SB 2089!!!!

March 9, 2012

I am submitting my testimony to **SB 2089**.

For several years, my husband and I have owned a rental property on the Big Island. Before renting this property, we applied for a business license. We took the time to understand the GE and TA taxes. We collect and submit these two taxes on time and as required. **We follow the rules.**

Because I manage the rental, I am acutely aware of our cash flow and accounts receivable. I am able to manage and pay our mortgage, association dues, property taxes and other related expenses in a timely manner. Having a real estate agent manage our property would destroy our cash flow and ability to own this rental unit.

**The irony of this proposed legislation is that the delinquent association owners and foreclosure owners in my condo development are REAL ESTATE AGENTS!! YES!** These same people who are proposed to manage MY well run property are actually the stinkers of our development! Real estate agents who mismanaged their risk and own finances and have been a plague on our development. Our development is working to purge the real estate agent owners—the plague in our development—and slowly our association income levels are increasing and competent owners are taking over the units.

**MANY OF THESE DISTRESSED REAL ESTATE AGENTS RENTED THEIR UNITS AND NEVER COLLECTED GE OR TA TAXES!!** *Oh the irony of this legislation!!!*

Before taking any further action on this legislation, I ask that the Hawaii Legislature conduct research into how many State of Hawaii foreclosures were owned by real estate professionals. I think the results will be shocking!

**I ask the Hawaii Legislature to please toss out this proposed legislation. It was not introduced in good faith. This legislation will be devastating to already stressed and strained families who are just staying afloat in this economy.**

Thank you for your consideration.

Christine Hughes

Homeowner, Big Island

E-mail: [christinehughes@earthlink.net](mailto:christinehughes@earthlink.net)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Robert Humiston

Organization: Humiston & Company, CPA's

E-mail: [Bob@humistonandcompany.com](mailto:Bob@humistonandcompany.com)

Submitted on: 3/9/2012

Comments:

I oppose SB2089. This bill requires nonresident owners to forego the control of the operation of their business and to be forced to use a property manager and it is called "tax compliance." To dictate how one operates and manages their business is more than tax compliance. This method of "tax compliance" is not used by our federal, or any other state governments for that matter, to obtain tax compliance from individuals, corporations, or privately held company's that are "nonresident" owners who operate transient accommodations. Federal and State payroll taxes, Use taxes, to name a few, are all collected by business owners and individuals who are charged with this "trustee" type responsibility in all other states. The federal and state governments are charged with auditing these "trustees" and should violations occur, penalties are imposed. This action by Hawaii is an abrupt departure from the foundational premise of tax compliance in this country as it imposes control over ones rights as a business owner to operate that business as they see fit. By placing another body in between the payee and payor of the tax, does not insure collection or accuracy nor discharge the state from its responsibilities. It only adds another layer of possible abuse.

Respectfully,

Robert S. Humiston, C.P.A.

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ross & Arlene Jasper

Organization: Individual

E-mail: [jasrbi@aol.com](mailto:jasrbi@aol.com)

Submitted on: 3/9/2012

Comments:

We lived in Hawaii for 25 years. I am intimately familiar with how the rental market works (rental management companies and Realtors) having owned and served on AOA boards for both long term and vacation rental properties. We still own a vacation rental property on Maui and have always paid both the GET and TAT taxes that were due when they were due.

From my experience, owners who handle the rental of their vacation property(s):

- Maintain it in better condition than property managing agents or Realtors. This pride in ownership increases visitor satisfaction and repeat occupancy and fosters the Aloha spirit.
- Enjoy better occupancy than "Realtor or licensed management companies" properties and therefore pay more GET and TAT to the State of Hawaii.
- Offer a better value to potential visitors thus bringing more visitors to Hawaii with the accompanying benefits to local businesses and thus tax revenues.
- Help to maintain and increase the value of each unit in a complex by making the purchase of the property more attractive and affordable to buyers thereby supporting increased sales prices and property tax valuations the resultant of which is greater tax revenue for the State of Hawaii.

SB2089 appears to have been drafted to support special interests and seems more punitive (additional fines and revenue reducing to owners) than fiscally productive for the State of Hawaii. The claim that "there are a sizeable number of owners who do not" pay TAT is totally unsupportable and undocumented. If it can be documented, there are current laws in effect which can be used to collect unpaid TAT as well as accompanying penalties. From personal experience, there are documented cases of Realtors and property managers who have comingled funds and went out of business through bankruptcy or sanctions by the Real Estate Commission.

The "consumer protection issue" cited in the bill also has no supportable documentation. If owners who advertise on the primary "vacation rentals by owner" sites do not fulfill their advertised claims, the visitor can lodge a complaint with the listing site which can result in their being delisted. Additionally, the visitor has the right to post a review which further protects the "consumer" by providing actual "user" experience. This "consumer protection" is a lot better than the "consumer" gets from general product advertising that is aired on TV and/or presented in newspapers.

If owners who handle the rental of their property have to turn their rental property over to real estate brokers or sales people or property management companies, the State of Hawaii will lose much needed revenue without any real rationale. This will result from owners turning their units into long term rentals; lower rental revenue; decreased TAT and GET and stagnant or lower property value not to mention the real possibility that owners will walk away from properties due to the increased negative financial burden.

There is an old business expression "if it ain't broke don't fix it." SB2089 will not fix anything. Claims that millions of dollars in revenue to the State is being lost is totally without foundation. SB2089 does not appear to be either equitable to non-resident property owners or beneficial to the State of Hawaii. It is in fact, just the opposite. There is a reason why so many owners handle the rental of their properties themselves and the reason is certainly not to avoid TAT. It is to provide revenue with which to help make vacation property ownership more affordable and enjoyable for visitors as well as themselves. No Realtor or management company will/can give the attention to visitor satisfaction that can meet the standards of an owner who also uses the property themselves.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Roger Juranek

Organization: Individual

E-mail: [alohawhaler@yahoo.com](mailto:alohawhaler@yahoo.com)

Submitted on: 3/9/2012

Comments:

I strongly urge a NO vote on this measure. This bill will have adverse effect on the local workers who are employed as maids, repair workers etc, by the independent owners. The works will lose their jobs to realtor companies who have in the past done a substandard service to my guest. I had many complaints about the non caring realtor who was out for the buck and not the tourist interest. This will increase the cost of renting out to tourist and in the long run generate LESS money for the State of Hawaii, because less tourist will be unable to afford the increase in price, because a Realtor will add their charges to the guests of Hawaii. I would think The Hawaii government would want to protect works of Hawaii and would want tourist to come to Hawaii!



09 March 2012

Testimony for SB2089 SD1,

My wife and I are non-resident Maui county property owners. When we decided to make our purchase we specifically only looked at properties that were approved for vacation rentals. We obtained an on-island property agent from day one and we have paid our TA and GE taxes each month since we began conducting vacation rentals.

Buying in the height of the market forced us to self-manage these properties to the greatest extent possible. We almost had to lose both of our properties during the recession and are just now seeing a recovery in travel to the islands, but still no signs of recovery in property values that are down 30-40%.

Requiring self-managed vacation home renters to hire someone to collect rents and taxes and then pay these taxes will push most of us to hire a full-service agent. This runs between 25% for a not very good agent to 50% for the most popular agent. We like many others cannot afford to keep these properties given this scenario.

We have followed the vacation rental laws and rules in good standing and have generated tens of thousands of dollars in property, TA, and GE taxes each year. We should not be forced to use a service to do what we can do ourselves. This would be similar to requiring everyone to use a licensed CPA to prepare their taxes, or a licensed mechanic to change their oil. In addition, it is discrimination that this proposed legislation only applies to non-resident owners.

Passing this bill will only hurt those who currently following the rules and pay their taxes. In many cases, this will result in additional vacation rental properties going into the foreclosure pool. Those who run illegal vacation rentals, and those who currently choose not to pay the TA and GE taxes will continue to do so. The very rich who own their properties outright and can already afford to pay a full-service property manager will also not be impacted.

This bill only hurts those who already follow the rules and who lose money each year trying to hold onto an investment. This sends the wrong message to future Hawaii investors. More so, this type of legislation strips the self-sufficient entrepreneur of the right to invest their time in order to minimize expenses and thus provide a vacation lodging alternative that more mainlanders can afford, especially families. The result will be less legitimate vacation rental condos and thus higher prices, with an end state of less vacationing families and thus less income for the state.

Respectfully,

David and Terrie Kellmeyer

Submitted by: Terrie Kellmeyer  
Organization: Individual  
E-mail: [terrie.kellmeyer@cox.net](mailto:terrie.kellmeyer@cox.net)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gary kneepkens

Organization: Individual

E-mail: [Jkneepkens@yahoo.com](mailto:Jkneepkens@yahoo.com)

Submitted on: 3/9/2012

Comments:

The government has enough to do without imposing silly legislation like limiting homeowners to choose how to lease their properties! There are so many things that need immediate attention...focus on those rather than placate yourselves to the whims of Another groups fiscally motivated interests. This is a RESOUNDING vote against having rentals allowed only through agents! As an owner this is absurd!!!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marilyn kneepkens

Organization: Individual

E-mail: [kneepkens@yahoo.com](mailto:kneepkens@yahoo.com)

Submitted on: 3/9/2012

Comments:

The government has enough to do without imposing silly legislation like limiting homeowners to choose how to lease their properties! There are so many things that need immediate attention...focus on those rather than placate yourselves to the whims of Another groups fiscally motivated interests. This is a RESOUNDING vote against having rentals allowed only through agents! As an owner this is absurd!!!

**From:** LoikaLane@aol.com [mailto:LoikaLane@aol.com]

**Sent:** Saturday, March 10, 2012 4:05 AM

**To:** TOUTestimony

**Subject:** Please OPPOSE SB2089

This bill is trouble for Hawaii and will not solve the problem of some landlords not paying their taxes. I believe it will reduce, not increase excise and TAT payments to the state. Please vote NO.

---

Lois Koenig (916) 652-5017

May your troubles be less,

Your blessings be more,

And nothing but happiness come through your door!...Irish Blessing

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kathryn Kosec

Organization: Individual

E-mail: [k.kosec@comcast.net](mailto:k.kosec@comcast.net)

Submitted on: 3/9/2012

Comments:

Please do not pass this bill that takes away individual rights--it will be a disaster for Hawaii's economy!!

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Brad and Wendy Kreller

Organization: Individual

E-mail: [kreller2124@aol.com](mailto:kreller2124@aol.com)

Submitted on: 3/9/2012

Comments:

We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws. However, we request you oppose the passage of SB2089 SD1 and vote no, allowing for further discussion and analysis.

We appreciate that the Amended Bill has included a provision for exemption by obtaining a "tax clearance" from the Tax Department to be transmitted to the real estate commission. The Bill, however, does not establish what the criteria would be for granting the "tax clearance" or the timeliness of the Tax Department to provide the tax exemption. We fear the Tax Department will be overly burdened with requests causing delays, which would result in noncompliance. There are times when the Tax Department takes up to two months to provide a requested tax identification number, so one can reasonably expect there would be many delays in obtaining a "tax clearance." Additionally, we do not know how we would comply with the requirement of Federal Form 990 being transmitted to the Real Estate Commission. Form 990 is for "Return of Organization Exempt From Income Tax." The annual requirement of obtaining the tax clearance may prove to be an obstacle to compliance that burdens only nonresident owners.

If the Legislature is inclined to pass this Bill, we request that the resident owners also be required to comply as there does not seem to be an inherent justification for only burdening nonresident owners with all of the requirements in this Bill. As the Attorney General suggested, "... under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents." We would therefore request that all who provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill SB2089 HD1 is based on the premise that nonresident owners do not comply with tax requirements. In the absence of new studies as the Attorney General suggests, it is reasonable to rely upon the last studies performed by the Hawaii Tourism Authority. In 2007 the Tax Department in Testimony stated:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."

2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."

3. "The Department does not believe there is substantial non-compliance with tax obligations."

Section (a) Makes requirement of compliance only on nonresident owners (if one does not obtain a tax clearance) that it does not impose on resident owners. Further, in the circumstance of a nonresident owner who owns property in a condominium hotel they "shall employ a condominium hotel operator ..." This means that one subsection of nonresident owner is even further restricted and can ONLY hire a condominium hotel operator and no other. This seems to be unnecessarily limiting to free choice of whom to engage in the service of property management.

Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island. This further incurs additional costs in advertising (when one must pay by the line) that it does to the resident owner.

We, as nonresident owners, seek to comply with the laws and pay taxes as required. This Bill however, will put many more layers of operational compliance on nonresident owners than it does on resident owners.

The Hawaii's Tourism Authority states in their testimony of 2/2/12 regarding this Bill, "Chapter 237D already provides for penalties for engaging or continuing in the business without registering as required by the law." Additionally, the Department of Tax on 2/2/12 states the need for "increase education. ..."

Again we ask you to vote no or defer the passage of SB2089 SD1. We believe that a greater focus of awareness of the laws would bring about increased compliance. We offer the following suggestions:

Educate by Notice: It should contain language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.

Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice. Every property owner receives a property tax bills. The Notice should be enclosed in the mailing of the tax bills. The result would be EVERY OWNER WOULD RECEIVE NOTICE OF REQUIRED GE AND TA TAX COMPLIANCE AND STATE TAX RETURN. There would not be one property owner in the State of Hawaii who did not receive the information that they must comply if they rent transient accommodations.

In conjunction with a higher level of educational outreach, the State of Hawaii may receive a substantial amount of back due taxes by offering an amnesty program to all noncompliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

**\*\*Here are some possible solutions as to how to track down those that aren't paying their GE and TA:\*\***

- 1) all vacation rental accommodation owners (VRAO)s must advertise to get renters.
- 2) there are a limited number of ways (VRAO)s can advertise their accommodation.
- 3) 99 % plus of these avenues of advertizing are websites such as VRBO, Flipkey, Homeaway, Craigslist, etc.
- 4) As of Jan 2013 all those offering vacation rentals must post their tax ID/business license number with every ad for accommodation.
- 5) The finance department can employ exception tracking software (ETS) to search all these sites to extract any ad that has no tax ID/Business license posted in the ad.
- 6) These ETS programs can search just like google does millions of listing in no time flat.
- 7) Within seconds the finance department can have a list of every potential tax violator state wide.

Mahalo.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gregory Lange

Organization: Individual

E-mail: [Mauilange@msn.com](mailto:Mauilange@msn.com)

Submitted on: 3/9/2012

Comments:

I appose as an owner it is unconstitutional

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Barbara Lange

Organization: Individual

E-mail: [Mauilange@msn.com](mailto:Mauilange@msn.com)

Submitted on: 3/9/2012

Comments:

I appose as an owner it is unconstitutional

Gayle Larson  
2295 Hamilton Ave.  
North Bend, Oregon 97459  
[gaylelarson@me.com](mailto:gaylelarson@me.com)  
541-297-1249

March 8th 2012

Hawaii State Capitol  
HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012  
Honolulu Hawaii 96813

**Re: SB 2089/OPPOSE**

Dear Committee Members,

As a property owner I **strongly oppose SB 2089** because if this measure passes, this severely limits my options and **infringes on my property rights and the rights afforded to me under the commerce clause of the constitution**. Measure SB 2089 effectively removes my rights to manage the rentals and the affairs (i.e.:Rentals/GET/TAT/) of my property. Furthermore, this bill discriminates against me and implies I "need a big brother watching over me" but yet in the end, I am the one responsible to pay and file my taxes. If there is a mistake by a property manager, the property manager is not responsible, I am.

As of the day we bought our unit, we have had a Hawaii Tax ID #, we pay our TAT/GET on **EVERY** rental. We prepare our 1099 forms. SB 2089 gives all power and control to on-island property managers. Furthermore, we did not purchase our condo to make money. We make enough money to cover our expenses. Our main reason for purchasing our unit is so we can go to Maui when we want to go to Maui.

In regards to consumer protection, I have had only compliments on my unit. As of the first day of owning our condo, I have two on island contacts that live within minutes of my condo in the event there is a problem.

It is the Department of Revenue and Tax's **responsibility** to review property owner records and determine who is not paying the TAT and the GET. The **proposed amendments for an exemption** are cumbersome. Furthermore, **measure SB 2089 restricts what free markets are designed to do and that is to create competition**.

**This type of restrictive measure, will decrease overall tourism, decreases free market competition and create adverse consequences if a homeowner has a conflict with a property manager**. Furthermore, property managers are not regulated on commission and rental fees. Simply put, measure SB 2089 creates unfair restrictions and discriminates against off island property owners and gives on island property managers the ability to intimidate and bully off island owners and guests.



Lastly, the SB 2089 SD1 revision signed by Senator Baker states: "In February 2012, the Maui County Council Planning Committee advanced a measure to regulate short-term rentals." Page 2.

I personally contacted Maui County Councilor Couch who wrote this measure and this **measure is for homes** that are being rented in residential areas. It does not affect or vacation condo rentals in anyway. With all due respect to Senator Baker, her statement and reasoning misrepresent the measure in Maui County.

It seems that this legislation has quietly been passed from committee to committee and off island property owners are at a clear disadvantage in terms of even knowing that this is going on. Hardly this is fair to the many off island property owners who support the major dominant Hawaii tourism market. SB 2089 is a bill that in effect is "biting the hand that feeds you".

Respectfully Submitted,

Gayle Larson  
Luana Kai Condo Owner  
940 S. Kihei Rd. Unit D 101  
Kihei, Maui 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Comments Only

Testifier will be present: No

Submitted by: Adam Leamy

Organization: Individual

E-mail: [aleamy@northwestpublicaffairs.com](mailto:aleamy@northwestpublicaffairs.com) Submitted on: 3/9/2012

Comments:

Dear Legislators:

In providing this testimony, to you and others as noted, I am asking, that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them – which in both cases will be far superior to mine – to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in SB2089 SD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections it offers Americans and Canadians.

Kind regards,

Adam Leamy

Victoria, BC, Canada

March 8<sup>th</sup>, 2012

Members of the House and Senate  
Hawaii State Legislature  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Members of the House and Senate of the Hawaii State Legislature:

My name is Adam Leamy. I am a Canadian citizen, residing in Victoria, British Columbia, Canada. I am writing in respect of the North American Free Trade Agreement (NAFTA) and Senate Bill 2089 SD1 (and recent Hawaii State Legislature bills similar to it).

My interest in this bill, and recent bills like it, stems from my ownership of two properties on Maui; units 203 (purchased in 2008) and 208 (purchased in 2011) in Hale Kai O' Kihei. This is a 59-unit building located at 1310 Uluniu Road in Kihei, 96753, and is supported by a full-time, live-in Resident Manager. Both our apartments are cared for and attended to by Tips Maui, Inc., owned and operated by Mr. Ed Galvez, of Maui, Hawaii. My Hawaii Tax Identification Number is W87097056-01. My Internal Revenue Service Tax Identification Number is 98-0607258.

I am not alone in investing in United States real estate in order to establish and conduct enterprise there. I expect that there are many thousands of Canadians who have made and operate similar investments in Hawaii, Florida, California, the New England states and all other states and regions of the United States, providing legal guest accommodation in all manner of housing types and locations. In the same vein, there are likely many thousands of Americans who have invested in vacation and second properties in the provinces and regions of Canada, and through responsible management decisions, make them available to tourists visiting those locations.

It would seem to me that if individual citizens of Canada and the United States made such investments, and then found that state or provincial action applied greater operational standards and additional costs to them than it did to 'resident' investors engaged in the same enterprise, NAFTA would be discredited within both countries at its basic level: individual citizens who sought to pursue cross-border investment and enterprise through its provisions, only to see themselves the focus of targeted operational requirements and costs *after* the investments had been made. It also seems likely that such individuals, encouraged by their governments to embrace NAFTA and seek opportunities under its provisions, would quickly turn to these same governments for action and resources to offset the additional costs imposed on them because of such governments' encouragement to embrace NAFTA, and the failure of the cross-border state or province to honour its provisions and protections.

It also seems to me that in these uncertain economic times, it is better to head off such problems so that people can focus their energies on making investments and creating and operating enterprise. This does not seem to be a good time for any of us to be distracted from the fundamentals our business investments and our operation of them.

And that is why in writing to you I am also writing to others, by email or by fax as appropriate, to seek their efforts in providing helpful input to Hawaii State Legislature on bill SB2089 SD1. It is my hope that they may be able to assist in ensuring SB2089 SD1 and bills similar to it achieve State of Hawaii objectives while honouring and upholding the provisions and promise of NAFTA, as committed to by the United States, Mexico, and Canada. These individuals are:

- The Hon. John Baird, MP, Minister of Foreign Affairs, Ottawa, Canada
- The Hon. Ed Fast, Minister of International Trade, Ottawa, Canada
- The Hon. Diane Ablonczy, MP, Minister of State of Foreign Affairs, Ottawa, Canada

- Ambassador Ron Kirk, U.S. Trade Representative, Washington, DC
- The Hon. Max Baucus, Chairman, Senate Committee on Finance, Washington, DC
- The Hon. Orrin G. Hatch, Ranking Member, Senate Committee on Finance, Washington, DC
- The Hon. Dave Camp, Chairman, House Committee on Ways & Means, Washington, DC
- The Hon. Sander Levin, Ranking Member, House Committee on Ways & Means, Wash., DC
- Sen. Ron Wyden (OR), Chairman, Subctte. Int'l Trade, Customs, and Global Comp., Wash. DC
- Ambassador Gary Doer, Canadian Ambassador to the United States, Washington, DC
- Ambassador David Jacobson, United States Ambassador to Canada, Ottawa, Canada
- Consul General Cassie Doyle, Consul General of Canada in San Francisco (resp. for Hawaii)
- Perrin Beatty, President and CEO, the Canadian Chamber of Commerce, Ottawa, Canada

I start by saying that I am a responsible and documented part of the Hawaii Tourism Industry. I respect United States sovereignty over its affairs, and that of the individual States over theirs. So I do not consider it my place to offer a stance on this bill. I do hope, however, that my input — to the extent it might reflect the principles that underpin your deliberations and debates — might be considered in your actions regarding your responsibilities related to this and similar pieces of legislation.

My investment in the United States, in the State of Hawaii was shaped in part by the provisions and opportunities inherent in the “North American Free Trade Agreement” (NAFTA), which began on January 1, 1994. This agreement removes most barriers to trade and investment among the United States, Canada, and Mexico. My operation of this investment is fully in keeping with the scope and purpose of that Agreement, the requirements of all appropriate local, State, and United States tax laws, and is in accordance and compliance with the “United States — Canada Income Tax Convention,” a tax treaty between our two countries signed at Washington, D.C. on September 26, 1980, and which entered into force on August 16, 1984.

I make each of my properties available to vacationers to Hawaii through Vacation Rentals By Owner, where they are listed under [www.vrbo.com/241190](http://www.vrbo.com/241190) and [www.vrbo.com/357582](http://www.vrbo.com/357582). I make all my own bookings. My bookkeeper provides invoice and supplementary guest-contact support in this regard, and ensures collection and remittance of the Hawaii Transient Accommodation Tax and the General Excise Tax. My accountant prepares my Canadian tax return for the Canada Revenue Agency. And an IRS-qualified and recognized accountant makes all required filings to the Internal Revenue Service per its requirements and the “United States — Canada Income Tax Convention,” i.e., IRS form 1042 and Hawaii State Tax Form N-30. These are not inexpensive services, but in my view, they are what’s required to operate responsibly and successfully.

On the Hawaii State Legislature webpage, SB2089 SD1 is identified as follows:

Measure Title: RELATING TO TRANSIENT ACCOMMODATIONS.

Report Title: Nonresident Owners; Transient Accommodations

Description: Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence to employ a real estate broker or salesperson. Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator. Requires relevant information about owners of the transient accommodation to be provided to the department of taxation for enforcement purposes. Requires the counties to provide the department of taxation with relevant owner information about every transient accommodation permitted by the respective counties annually. Establishes fines for noncompliance. Provides an exemption from the mandatory employment of a licensed real estate broker or salesperson or condominium hotel operator in certain circumstances. (SD1)

On this same Hawaii State Legislature webpage, “Nonresident Owner” is defined as follows:

[A]n owner of a rental property in the State who resides on a different island from the property or out of state and who rents or leases the property to a tenant.

This and recent similar bills progressing through the Legislature make and apply to “nonresidents” management and operation standards and requirements from which “residents” are exempted. And it is this distinction that forms the basis of my uncertainty about SB2089 SD1: Are not Canadians who are investors in Hawaii and who have investments there to receive treatment no less favourable than the most favourable treatment accorded, in like circumstances, by the State to resident Hawaii investors and to investments of resident Hawaii investors?

I referenced, earlier, the North American Free Trade Agreement. Signed by U.S. President George H.W. Bush, Mexican President Carlos Salinas, and Canadian Prime Minister Brian Mulroney, NAFTA came into effect on January 1, 1994. Since that time, NAFTA has, for all three countries, generated economic growth and increasing standards of living. In strengthening the rules and procedures governing trade and investment throughout the continent, NAFTA has opened doors for our countries. As important, for each of us individuals, it has allowed us to make investments, create enterprise, and drive prosperity.

I am not a legislator, a trade expert, or a NAFTA expert. Nor am I a government official possessed of, or with in-house access to, this level of expertise. I own a small business, and with my profits and personal savings, I have invested in these two properties in Hawaii. So when, in trying to come to terms with SB2089 SD1 and similar recent Hawaii State Legislature bills that hold provisions for “nonresidents” that do not apply to “residents,” I turned to NAFTA, Chapter 11 (noting that “Party” means the United States, Mexico, and Canada):

**NAFTA Article 1102: National Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.
4. For greater certainty, no Party may:
  - (a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or
  - (b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

I recognize that I may well be wrong in considering this NAFTA provision to be applicable to me, and to other Canadian citizens who have made cross-border investments in vacation accommodation properties in the United States, and who are unsure about SB2089 SD1. But on the chance that I am not, and other current or potential Canadian investors find themselves in a similar position and are unsure about this and other Hawaii bills, accurate information on the NAFTA national treatment front might help shape the deliberations and debate by the Hawaii State Legislature. That would be positive, and it is in this spirit that I am contributing.

*I am asking, therefore, that all recipients of this letter, including Hawaii State Legislators, use the expertise and resources available to them — which in both cases will be far superior to mine — to undertake to determine that such a legislative standard as proposed by the Hawaii State Legislature in SB2089 SD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.*

I do hope that in considering the purpose and intent of this and similar bills — if the purpose and intent are honourable and aimed at ensuring lawful participation by all Hawaii property owners offering transient accommodation in support for the schools, hospitals, services and infrastructure that keep Hawaii running — careful thought is given to all good and hard-working Americans and Canadians who have invested in Hawaii and, through payment of taxes, are contributing to a strong and economically viable Hawaii.

As I said at the outset, I am a Canadian. I am proud to have a documented business that attracts and accommodates visitors to the state, and which supports the Hawaii and United States economies through purchases made there to ensure the amenities and services are in place to make our guests' stays exceptional. I know that my voice does not factor in Hawaii State Legislature considerations, but I would hope that commitments our two countries have made to each other — and indeed, expectations that we have of each other through trade treaties and tax conventions — do.

I realize NAFTA may seem a long ways away from the intent and purpose of this and similar Hawaii State legislature bills. But in the case of Canada and the United States, this linkage is so very strong, and whether we think about it frequently or not at all, it very much defines the relationship between our two countries, and offers a standard of treatment to which countries around the globe aspire, and in which they seek to participate. And for this reason, too, I think that care must be taken not to weaken this standard of treatment.

The Government of Canada makes some helpful findings of the importance of this relationship on its website <http://www.canadainternational.gc.ca/washington>. It notes that:

- Trade between the United States and Canada is huge and growing. Total trade between the two countries was worth \$676 billion in 2008 — more than one million dollars a minute.
- Canada is the top purchaser of U.S. exports, which was \$248.2 billion in 2010.
- Canada is the biggest export market for U.S. products, ranked Number 1 in 34 states as the leading export market for goods in 2008, and Number 2 in 11 others.
- More than 8 million U.S. jobs depend on trade with Canada. That's 4.4% of total U.S. employment — 1 in 23 American jobs depends on free and open trade with Canada.
- In Hawaii, in 2008, 40,465 jobs, or 4.6% of the total jobs in the state were related to trade with Canada. In that same year, almost \$2.38 billion of the Hawaii's output, or 3.7%, was related to trade with Canada. (Source: U.S.-Canada Trade and U.S. State-Level Production and Employment: 2008; Laura M. Baughman and Joseph Francois.)

Trade and investment flow both ways, and data showing the importance of the United States to Canada are just as impressive indicators of the power of the trade and investment relationship between our two countries. When advancing these facts, the same Government of Canada webpage notes that these gains underscore the need for making sure that our border remains open to trade. And United States government webpages make the same assertion; government policy on either side of the border that hinders or weakens investment costs jobs in every state and every province — and, I think it is fair to say, given our relationship, hinders confidence in others around the globe who would consider investing in our countries.

The US Department of State website (<http://www.state.gov/s/1/c3439.htm>) offers additional clarity on the matters raised above, when it advises:

Chapter Eleven of the North American Free Trade Agreement (the "NAFTA") contains provisions designed to protect cross-border investors and facilitate the settlement of investment disputes. For example, each NAFTA Party must accord investors from the other NAFTA Parties national (i.e. non-discriminatory) treatment and may not expropriate investments of those investors except in accordance with international law. Chapter Eleven permits an investor of one NAFTA Party to seek money damages for measures of one of the other NAFTA Parties that allegedly violate those and other provisions of Chapter Eleven.

Hawaii State Legislature bill SB2089 SD1 and others like it appear to be aimed at making sure that all who benefit from Hawaii and the United States contribute as required to keep Hawaii, and the United States running. We have precisely the same obligation where we live here in Victoria, in the Province of British Columbia, located in the country of Canada.

In these difficult economic times, it seems practical for any government to pursue tax scofflaws, law breakers, and free-riders whose choices not to participate in proper documentation, remittance, and compliance hurt us all. But to do so the manner of Hawaii State Legislature bill SB2089 SD1 would appear to contravene the obligations of the State as committed to by the United States in affixing its signature to NAFTA on behalf of the states. And in these difficult times, it seems an unhelpful thing to let stand any policy or legislative initiative which tells current investors that despite the intent, promise, and security of NAFTA, its provisions and protections are meaningless, and their investment in the United States is as risky as, or perhaps riskier than, an investment in a jurisdiction without a trade agreement.

I would hope that all who read this would provide input to Hawaii State Legislature bill SB2089 SD1 and others like it to ensure they achieve State objectives and achieve the commitments, provisions, and promise of NAFTA. This bill, and others like it that have been written or amended in the past month, would appear to fail the required standard of providing Canadian investors with "treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part."

So if NAFTA shaped these cross-border investments by individuals, or if it governs their treatment in either country, it seems to me that action by a state to impose a different standard of operation on real estate investments by Canadian owners not resident in the state — or by a province on real estate investments by Americans not resident in the province — undermines NAFTA and creates significant tax liabilities for governments in both countries. And this would be a terrible course of action for both our countries. It seems quite possible to me that if one state can advance legislation to change the rules of NAFTA to impose different standards and costs on Canadian investors, legislative creep could see other states do the same, and in time, Canadian provinces undertaking the same course to target Americans who own property in Canada. I think we owe each other better, but I concede that for all manner of governments, these are difficult and desperate times. Perhaps SB2089 SD1 correctly signals that the time for trade agreements has passed.

In closing, irrespective of tax treaties and trade agreements that make my ownership of two properties in the United States possible, it always has been and continues to be a privilege that I am able to do so. I work very hard to provide an exceptional guest experience, and I am proud of my success in attracting visitors from around the globe to Hawaii, Maui, and Hale Kai O' Kihei. And yes, to my two apartments there. And part of the reward in this is knowing that I am making all tax collections and remittances to support the schools, hospitals and infrastructure that are essential to life, community, and opportunity in Kihei, Maui, and Hawaii, and that I value just as highly here, and support through my Canadian tax compliance.

But I would request that if the Legislature were simply aiming to make all owners as responsible as those who are obeying all the tax and other laws, they might reach out to those of us with State of

Hawaii Tax Identification Numbers and Internal Revenue Service Tax Identification Numbers so that we could work together to demonstrate progressive ways to enter into compliance and make filings and remittances that are essential to the services and programs and thus the security and prosperity of Hawaii and the United States.

We care, and we would help.

There are thousands of good and willing people amongst those who have the privilege of owning rental properties in Hawaii. I know they would work with the State to assist others to achieve the standard of responsibility. Even given my status as a foreigner, I would be willing to help. There are ways to secure the participation of those who are not in compliance with Hawaii and United States tax requirements without sapping the strength or support of those who are, and importantly — which I fear is the case with SB2089 SD1 — without disregarding the commitments and protections that give credibility, strength, force, and stature to NAFTA.

The benefit of owning vacation or 'transient' accommodation in Hawaii or in any state or province should not be limited to the owner, nor end with the purchase of the property by an owner. As so many law-abiding, tax-collecting, and -remitting owners have proven — be they American, Canadian, or of other nationality — that purchase can be and is the start of the flowing of benefits to all who call the location of the investment home, and choose to visit it, too.

I hope that's a point upon which we can build and work together, and one that would see us do so while upholding responsibilities, protections, and commitments under NAFTA.

I wish you the best in your deliberations throughout this legislative session. I hope that you will use your expertise and resources, and seek and welcome same from others, to determine that such a legislative standard as proposed by the Hawaii State Legislature in SB2089 SD1 supports and upholds the spirit and intent of NAFTA, and the provisions and protections I have noted from Chapter 11, above.

Sincerely,

Adam

Adam Leamy  
773 Island Road  
Victoria, BC V8S 2T8  
Canada

Tel: 250-592-4778  
Email: [aleamy@northwestpublicaffairs.com](mailto:aleamy@northwestpublicaffairs.com)



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Roy LeBlanc  
Organization: Individual  
E-mail: [rmleblanc@gci.net](mailto:rmleblanc@gci.net)  
Submitted on: 3/9/2012

Aloha,

My wife and I purchased a vacation home in Maui in 2009. Since that purchase we have enjoyed many frequent visits to the island. Living in Alaska it is those trips that help us through our harsh winters. Our condo is at a resort complex and when we are not using it we rent it out. We have a local on island agent however I handle all the rental booking, payment collection and payment of HI taxes. I obtained the necessary Tax ID and have been following the rules and making my tax payments timely. The income from the vacation rental has help offset the cost of owning a place on Maui and without that income it is unlikely we would keep the place. Requiring us to rent our condo through a licensed real-estate broker will result in increased costs, which will make the price of visiting Maui outside the reach of a majority of American's and foreign visitors. As a result, we will either have to stop short-term transient rentals and either figure out how to pay for the place or sell it. We were considering investing in a second condo however now with this bill proposed it is unlikely. I can understand this bill is most likely intended to reduce tax evasion however I think you will find, if passed the monies collected for transient rental tax will decrease. Many owners will simply cease to rent for short terms; others will simply bypass the legal route and rent outside the system. Also, this could cause a flood of vacation properties to the real-estate market and impact the slowly recovering values. Additionally please consider all the lost advertising and potential lost visitors. Currently you have property owners all over the United States and world, advertising their vacation properties for rent in their local areas, on island brokers will not be able to meet this level, the result, less visitors, less money spent, less tax revenue for HI.

Lastly I feel this is actually discriminatory in nature, requiring an on island licensed broker signifies off-island people are not trust worthy since we are not locals. There are thousands of honest tax paying off island owners who deserve better from the State we chose to love. I am sure there is a better way to accomplish the desired goal without over burdening your off island owners.

Roy LeBlanc

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Comments Only

Testifier will be present: No

Submitted by: jennifer legrand

Organization: Individual

E-mail: jenniferemigh@att.net

Submitted on: 3/9/2012

Comments:

I STRONGLY OPPOSE THE OWNER NOT HAVING ANY RIGHTS TO RENT OUT THEIR OWN PROPERTY. WE LOVED OUR CONDO AND OUR EXPERIENCE ON THE ISLAND. OUR CONDO WAS SOOO CLEAN AND NICE AND WOULD STAY AGAIN.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Veronica Leonova  
Organization: Individual  
E-mail: [vleonova@comcast.net](mailto:vleonova@comcast.net)  
Submitted on: 3/9/2012

Comments:

Dear Representatives and Members of Tourism Committee, We are vacation rental properties owners in Kauai and we strongly oppose SB2089 SD1 Bill. This Bill doesn't help to insure fair tax collection (which we strongly support as taxpayers). In our opinion - it will have devastating effect on tourism, homeownership and Hawaii economy in general and will cost millions of dollars of losing taxes as a result.

Proposed amendment "Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence in a condominium hotel to employ a condominium hotel operator." We acquired our vacation rental properties converted to the condotel and sold out to the individual owners because large hotel operators got bankrupt. For the first 5 years we were using a large hotel operator for management, maintenance and rent our properties and this almost drove us into the foreclosure. We could not afford it even with the original split, but when the occupancy dropped down due to economy, the initially agreed split was suddenly changed by the operator using "force majeure" close from 50/50 to 75/25, we were paying flat fee for maintenance no matter if anything was done on our units or not. Renting our units by our self is our desperate attempt to keep so much loved properties in our possession. So far we can be afloat with our financial obligations, but it does require keeping our expenses low to maintain high occupancy rate covering a space in the budgetary constrained visitors' category. This category of visitors is new to Hawaii on top of the existing flow serviced by conventional hotels. Forcing us back into the hands of the large hotel operators means our inevitable bankruptcy and removing this additional flow of budgeted visitors to Hawaii. We have a significant amount of owners like us in our resort who is avoiding the bankruptcy only thanks to removing excessive expenses of the large hotel operator. It did help stopping a constant flow of foreclosures in our resort. But it could change back to this point again and this bill would pass. We do have local cleaning and maintenance personnel who takes care of our property and provide 24/7 customer support to our guests. We are in a constant communication with them. We are traveling there regularly to inspect/deep clean/renovate our units, provide help and support to the resort's Board to ensure common areas, external dwelling, landscaping and everything outside is well maintained. We were able to repair and upgrade our units and they are in a much better condition comparing to units still maintained by the hotel operator. Although, we don't permanently live in Hawaii, we constantly working for Hawaii, religiously paying our GE/TA taxes and property taxes and don't understand why we should be penalized for that. Our family spent over 10k in Hawaii only last year (and more than 50 k over the last 6 years!).

Amendment includes exemption which is not clear and confusing. What is Form 990 which is required to get exemption? Why exemption should granted by Real Estate Committee, not by Taxation department? Exemption needs to be spelled out and explained fully in any proposed legislation.

In sum - this is unconstitutional and discriminating bill (targeting specific group of taxpayers- non-resident owners). This bill is promoting monopoly of real estate businesses and hotel operators and price fixing and violates Antitrust law. This bill violates constitutional rights of property owners to manage and rent their property without using licensed realtors or hotel operators.

Thank you for consideration,  
Proud owners of vacation rentals in Kauai and frequent visitors to Hawaii.  
Veronica Leonova and Victor Leonov,  
Wheeling, IL

Subject: 2089 SD1, Tourism Committee March 12<sup>th</sup> 9:30 am, Larry Levine, 2809 Manhattan Ave., # 1,  
Manhattan Beach ,CA 90266

To Whom it May Concern:

I would like to voice my vehement opposition to SB2089 SD1, amended. I have been privately renting a unit on Maui for decades, and have paid thousands and thousands of dollars in taxes. I advertise directly to the customer, and have many repeat customers. I see no need whatsoever to have to pay somebody else to do the job that I am doing now. I am licensed in Real Estate in the state of California, since 1973, but find this bill is outrageous. It is only meant to benefit the few local Real Estate people who are in the property management business in Hawaii,, to the detriment of the owners, the guests, tourism in general, and property values.

Find another way to enforce those who may not be paying their fair share of taxes, but do not cripple the rest of us who have been putting money in the State of Hawaii's coffers for decades.

Very Upset,

Larry Levine

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mary Elizabeth Libby

Organization: Individual

E-mail: [lizlibby@shaw.ca](mailto:lizlibby@shaw.ca)

Submitted on: 3/9/2012

Comments:

Since 2007 my husband and I have been property owners at Kihei Kai Nani in Maui, and since then, as Insurance Brokers/Owners, we have always maintained the strictest adherence to the rules and regulations of ownership on Maui and have complied with every regulation, tax requirement and income tax filings.

To now be singled out in an effort to catch those who have not been as dilligent or honest as we have been, is not only going to be a financial burden on us but is also insulting.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ralph Henry Libby

Organization: Individual

E-mail: [rlibby@megsonfitzpatrick.com](mailto:rlibby@megsonfitzpatrick.com)

Submitted on: 3/9/2012

Comments:

Since 2007 my wife and I have been property owners at Kihei Kai Nani in Maui, and since then, as Insurance Brokers/Owners, we have always maintained the strictest adherence to the rules and regulations of ownership on Maui and have complied with every regulation, tax requirement and income tax filings.

To now be singled out in an effort to catch those who have not been as dilligent or honest as we have been, is not only going to be a financial burden on us but is also insulting.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Wanda Lipscomb

Organization: Individual

E-mail: [wlipscomb1@comcast.net](mailto:wlipscomb1@comcast.net)

Submitted on: 3/10/2012

Comments:

I do not think this is fair. I strongly OPPOSE.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Chad Lopez

Organization: Individual

E-mail: [chad\\_767@yahoo.com](mailto:chad_767@yahoo.com)

Submitted on: 3/9/2012

Comments:

Please vote against SB2089. This legislation will hurt everyone. The only individuals that will benefit from SB2089 are the real estate companies and property managers. The people of Hawaii will be the ones mostly hurt by this legislation. All the self-employed housekeepers will be left without a job. Unemployment will rise at a detrimental level. We are just coming out of the worst recession in our times, please let's NOT make it worse for our beautiful state.

Thanks,  
Chad



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Suzy Lopez

Organization: Individual

E-mail: [wuvpoohbear@aol.com](mailto:wuvpoohbear@aol.com)

Submitted on: 3/9/2012

Comments:

I ask that you please oppose this legislation.

I support paying tax but are opposed to inserting realtors and property managers into the equation.

Law is unconstitutional as it only targets non-residents.

Exemption needs to be spelled out and explained fully in any proposed legislation

Property managers are the only ones to benefit from this law, everyone else loses!

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand.

I hope you all do the right thing and oppose SB2089.

Thanks,  
SL

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Donna Lowe  
Organization: Individual  
E-mail: [lowestop@comcast.net](mailto:lowestop@comcast.net)  
Submitted on: 3/9/2012  
Testimony for HB 1707 and SB 2089

We have owned a condo in Hawaii for 22 years. We have also only been able to do this financially by renting it out to friends, family and through vrbo. For 21 years or through Oct. of 2010, we always worked through a Property Management firm. In 2010 we were the ones who were doing all of the renting except for 10 days in Dec., 2010. We were having to pay 10 % to the property managers for each person that we rented to. Since we were doing all of the hard work, we felt that it was not fair to have to pay them 10%. If they had rented our place for at least half of the time, maybe we would not have felt that way, but they only rented it for 10 days versus the 124 days that we rented it for 2010. That did not justify giving them 10% for doing nothing for all of the people we sent over there. So we gave them notice in October, 2010, to sever our business relationship with them. We have not been sorry for doing so.

My husband and I have been Property Managers of our own properties for almost 40 years. We have worked very hard to get to where we are today. I have never met a Property Manager who I felt was going the extra mile to pursue the best possible tenant relations and business decisions for the property owner. One always will do a better job when you are managing your own property due to your personal interest level. We also pay our Hawaiian taxes on time by the way.

We are opposed to HB 1707 and SB 2089. We have found that our personal interest and hard work garners more success to our rental property in Hawaii than anything else. And Yes, we do so love to come visit your beautiful state. That is what makes our hard work worth the effort.

Mahalo for reading this!

Sincerely,

John and Donna Lowe

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Diane Luther

Organization: Individual

E-mail: [dianescondo@msn.com](mailto:dianescondo@msn.com)

Submitted on: 3/9/2012

Comments:

This bill discriminates against non-resident owners of transient rentals and makes no sense. Resident owners are in a position to abuse the system since they are available to take cash payments whereas non-resident owners have a paper trail that can be audited. I have owned a unit since 1988 and have paid ALL required taxes on a timely basis. When I used the services of a real estate broker the taxes collected were not paid by that broker - merely forwarded to me for me to make payment - so where is the hook? RE will charge more money to "make payments" and I'm not sure I trust them to do so yet I will be the one liable. If this passes as written (and I haven't seen the amendments) I will most likely take my unit out of the rental pool, thus reducing my personal property tax liability (new category - lower rate) and enjoy the unit more myself. Of course I don't spend as much as tourists so excise tax revenue from shop/restaurant owners and the like will fall if enough of us owners take our units out of the pool. A better solution is to go after those owners who have violated the existing laws and regulations. Don't penalize law abiding, responsible owners.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Scott McAvoy

Organization: Individual

E-mail: [mcavoyssr@gmail.com](mailto:mcavoyssr@gmail.com)

Submitted on: 3/9/2012

Comments:

This bill will significantly decrease our ability to rent, thereby decreasing tourism.

Simply put the 25-50% cost increase cannot be passed along to the consumer, putting the bulk of the burden on the owner. With increased burden we will be forced to sell our property. And because of the increased burden the next buyer will most likely not purchase the property as a rental, which will decrease state revenue. Property values will drop because you will limit the pool of buyers to those who don't need to rent to help pay for their purchase. This bill is a lose-lose for owners and the state. Each January we submit an affidavit to Maui county declaring our rental status. This is enough information for the county/state to determine who is not paying the necessary taxes. Several years ago I used a very prominent property management company to manage our property. After numerous issues that caused undue damage to our property we took control by renting direct. Not only is our property better maintained, it's better managed and our revenues (and taxes paid) have increased.

**From:** Sherry McGilvray [mailto:sherylyn8143@gmail.com]

**Sent:** Friday, March 09, 2012 6:35 PM

**To:** TOUTestimony

**Subject:** Oppose SB2089 SD1, Tourism Committee , March 12th 9:30 am

To Whom It May Concern,

This is in regard to Bill SB2089 SD1, Tourism Committee March 12th, 9:30 am

We own a condo on Maui we rent. We also use Castle Resort, an onsite management company. They handle housekeeping, maintenance and some bookings. We basically rent our condo and pay all taxes to the state. Castle does rent our condo when we have availability. Castle sends us the taxes they collect for us to pay quarterly from their bookings which we add to what we owe from our bookings. Our concern is if we can't rent our own condo we have no control over who we rent to or how much we can charge. Our condo accommodates 4 people maximum but if we aren't in control a management company could rent to more than 4 individuals. We also find damage and loss happens when there are young groups of kids (under 25) with no supervision, sport groups and large wedding parties. These types of bookings seem to lack respect for property and others in the complex.

If SB2089 passes we would lose VRBO (Vacation Rental By Owner) which most owners use exclusively to book reservations. If this happened we would lose a large portion of our revenue to a management company if they were to handle all bookings. The bottom line is this law would put most owners out of business not to mention it would infringe on our rights to manage our own property. I do feel all out of state condo owners need to have some management company they can use for maintenance and housekeeping to assure guests they are provided for even if the owner is not available ... just not a Management company that controls all our bookings.

Sincerely,

Sherry Lynn McGilvray

8143 Sandy Hook Terrace

Clinton, WA 98236

**This Bill is DISCRIMINATORY Against Vacation Rental Owners and This IS Still a FREE Country and we should have the option to Hire or Not Hire an Outside Company and pay them their High Commissions.**

**This Should Not Pertain to the Owners that can prove they have paid their taxes on time every time.**

Passing this Bill WILL NOT force owners to pay the Taxes. If they do not want to pay they will still find a way around it. IT WILL Only make it more difficult and expensive for the Honest Owner as ourselves that pay our Taxes faithfully and in an Economy where Owners are defaulting every day on their vacation rental responsibilities to Insist and Add more Fees on top of what we already pay by having to hire outside Inept Companies and Pay them high commissions is Ridiculous. The Owners Lose all the way around. The only ones that win are the Offices that developed this Issue to Benefit them, NOT THE OWNERS. So the Banks will be receiving more Defaults on Properties if this is passed as Owners Cannot afford more FEES that are Not Necessary. This will Inhibit the Honest Owners, Not the Dishonest Owners. **For the Owners that are not paying their Taxes they need to be contacted and dealt with in another manner.**

The Only Reason we can meet our monthly obligations for Our Vacation Rental is because we do the bookings ourselves and Adding another expense to us for it WILL BE a Hardship and as I know is true for other Owners, We Will Default and the Banks Already have more properties due to Defaults than they know what to do with.

THE TRAVEL INDUSTRY IS JUST STARTING TO PICK UP AGAIN AND IF THE OWNERS ARE FORCED TO RAISE THE RATES TO COVER ADDITIONAL FEES THE TRAVELERS WILL GO SOMEPLACE ELSE BECAUSE THEY WILL NOT PAY THE HIGH RATES AND HAWAII WILL EARN BACK THE REPUTATION OF AN EXPENSIVE PLACE TO VACATION AND ALL OF HAWAII WILL SUFFER FROM THE LOSS OF TOURISM.

**This BILL SHOULD NOT BE PASSED as It DISCRIMINATES against us as Homeowners AND our RIGHTS To RENT OUT OUR OWN HOMES.**

**Proposed Amendment SB2089 SD1**

This new law should only pertain to Owners that Cannot Prove they have paid their GET and TA Taxes.

The Owners that Can Prove they have Paid their GET and TA Taxes regularly should Not be Included in this New Law or Regulations.

**Ran Mackley**  
Gayle Mackey  
9522 S. 214<sup>th</sup> Pl  
Kent WA 98031  
**b**

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Shane McWhorter

Organization: Individual

E-mail: [propaneshane@aol.com](mailto:propaneshane@aol.com)

Submitted on: 3/9/2012

Comments:

All this will do is drive rental costs up and decrease occupancy and revenue for the State.

Aloha,

As the owner of a fully licensed and tax paying vacation rental, I urge you to vote against SB 2089 SD1. This is a very poorly thought out bill that is ill conceived and will have a devastating effect on vacation rental industry and the resulting taxes collected by the state. I offer the following:

1) The bill is intended to collect TAT and GE taxes from vacation rental owners by requiring them to operate through a real estate agent/manager. There has been absolutely no proof that there is any great amount of unpaid taxes aside from some unsubstantiated statements by the bill supporters. These supposed uncollected tax figures are completely baseless and without any backup. Anyone can throw out a figure if no proof to support it is required. As proof of my opposing position I offer two studies. The first is by Dr. Thomas Loudat, President, TAL Associates, Honolulu, HI and Dr. Prahlad Kasturi, Professor, Economics Department Radford University, VA. It states in part:

*"Our essential research conclusion is that the TVR accommodation industry generates significant, positive economic benefits to Maui County and the State of Hawaii.*

*At the high end of our estimation range, our results indicate positive economic benefits approaching: \$318.8 million in total output (i.e. sales), \$100.6 million in labor income, 3,478 jobs, \$19.7 million in Hawaii State taxes"*

The report also cautions against government intervention

*"Economic theory and empirical research suggest that **any government market intervention requires a rationale other than anecdotal opinions** oftentimes relied upon to justify regulation or perfect knowledge of the preference of future generations. Without such justification or perfect knowledge, government market intervention transfers the resource use decision from the property owner to the legal/political authority. It is akin to centrally planning a market. Simultaneously, government intervention distorts market mechanisms which require no government prodding to operate efficiently and effectively to supply products and services to meet consumer demand."*

The entire report can be found at

[http://www.ramaui.com/UserFiles/File/Government\\_Affairs/EconomicImpactTVRsJan2008.pdf](http://www.ramaui.com/UserFiles/File/Government_Affairs/EconomicImpactTVRsJan2008.pdf)

The second is from written testimony from April 3, 2007 in which the Hawaii Department of Taxation reported:

*"The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant. "*

*"As stated above, the Department concludes that, for the most part, transient accommodations providers are tax complaint."*

*"The Department does not believe there is substantial non-compliance with tax obligations."*

**Your own Tax department determined that this is a solution to a problem that does not exist!!**



2) Historically, occupancy rates by real estate managers are far lower than those achieved by owners. In my own case I went from 20% occupancy under a manager to 75% doing it myself. This almost quadrupled the taxes I pay to the state and is repeated many times over by other owners. A quick review of testimony submitted by other owners supports that this is a common occurrence. Under the real estate manager, I was required to pay taxes twice yearly because they were so low. Now I pay quarterly.

3) When my property was run by a real estate manager its condition was absolutely horrible. The curtains were held on with duct tape, the furniture was falling apart with the side of the sofa completely separated and the entire place was filthy. I spent \$25,000 the first year just bringing it up to acceptable standards. My manager didn't have a vested interest in the property and it showed. On the other hand, I am fully vested in the property, both financially and emotionally. I take great pride in offering my guests the best accommodations possible. I realize that for many, a trip to Hawaii is the trip of a lifetime and I take that responsibility very seriously. There is no consumer protection advantage in using a real estate manager.

4) The bill claims that operating through a real estate agent will improve consumer protection. I disagree. The manager I had consistently rented to drug dealers and prostitutes. I spent the first several years of ownership repairing the relationship with the condo association. Now that they realize that I don't operate that way, we work together quite well. My agent provided a haven for illegal activities that I no longer provide.

5) One of the sections of the bill would require owners to report the name of the local representative to the condo association. This is already done in my case as a matter of courtesy but is also required as part of renewing my non-conforming use certificate. This portion of the bill is redundant and unnecessary. My local representative is also my cleaning / maintenance guy. Putting his phone number on advertisements would result in him getting calls for quotes and/or reservations and would seriously disrupt his business. As much as I state that his number is the local contact, he will still receive calls. People are notorious for not reading the advertisements. I constantly receive requests for days already reserved, questions about the number of bedrooms, bathrooms... even though all this is stated very clearly in the advertisement / website. My cleaning / maintenance guy is my eyes and ears at my property. I trust him, pay him well, take him and his family to dinner when I'm on the island, even buy Christmas presents. This provision would jeopardize that relationship and result in lowering the income of a hard working local family.

Mahalo for you time and attention

Michael Marion

[www.alohawaikikigetaway.com](http://www.alohawaikikigetaway.com)

TVU permit - 90/TVU-0929

Tax ID - W30147628-01

We strongly oppose this bill. We already employ a full time property manager at "The Palms at Wailea 1" We pay almost \$1000/month in strata fees which includes this managers salary. We also have 3 other on island staff that do a fantastic job of looking after our condo and our guests and are available in case of any emergency anytime. Almost all our guests compliment us on how clean our unit is for them and how great a time they had . We collect and remitt all the appropriate taxes on all of our rentals. This would be very easy to confirm I would think. We don't want or need to have a property manager for our vacation rental.

Aloha & Mahalo

Marta & Stuart

[www.mauipalms703.com](http://www.mauipalms703.com)

[www.vrbo.com/241808](http://www.vrbo.com/241808)

[http://www.tripadvisor.com/VacationRentalReview-g609129-d2023908-Aloha\\_Luxurious\\_Palms\\_at\\_Wailea\\_703\\_2\\_bed\\_2\\_bath-Wailea\\_Maui\\_Hawaii.html](http://www.tripadvisor.com/VacationRentalReview-g609129-d2023908-Aloha_Luxurious_Palms_at_Wailea_703_2_bed_2_bath-Wailea_Maui_Hawaii.html)

1-866-933-2337 (toll free Mon-Sat 9-5:30 Pacific time)

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marta

Organization: Individual

E-mail: [mauipalms703@gmail.com](mailto:mauipalms703@gmail.com)

Submitted on: 3/9/2012

Comments:

We are private owners of a condo. We rent our unit out and bring tourists to Maui every week who are spending hundreds and thousands of dollars of which Hawaii benefits from. We advertise on 3 websites for people to stay at our condo on Maui 24 hours a day, 7 days a week, 365 days a year. We remit our taxes every quarter. Your looking a gift horse in the mouth! You will see a rise in properties for sale on the market and a decline in tourism. Who is doing the math there people?? Give your heads a shake. If there are some people not remitting their taxes, then use the laws in place to collect them.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Cheryl Miller

Organization: Individual

E-mail: [lynncherylm@sbcglobal.net](mailto:lynncherylm@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

We are property owners in Maui, and are VERY conscientious about ALWAYS paying our GET & TA tax. We bring a lot of tourist dollars to HI, both by our personal use of the condo as well as the encouragement of others who use our property. We CANNOT afford to pay a management company a part of our rental income and still keep the property. With all the costs on the rise in Hawaii, we barely operate in the black, and often go into the red. Should you require this from us, we will be forced to sell our Hawaii property, and spend our tourist dollars in Mexico, a very affordable, and increasingly appealing alternative to the unfriendliness of Hawaii's growing greed. Please do not pass this legislation.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jason Miller

Organization: Individual

E-mail: [jjm11870@aol.com](mailto:jjm11870@aol.com)

Submitted on: 3/9/2012

Comments:

VOTE NO on SB2089 SD1

My family has spent 2-3 months in Hawaii for the past 10 years, always renting from private parties advertised on the Internet. This is our preference over the impersonal treatment of a rental agent. If we cannot rent from a private owner, at the reasonable rates they can provide, we will be forced to move our winter stays to other tropical locations.

Please vote NO on this bill so we can continue to enjoy Hawaii within our budget.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Sue Miller

Organization: Individual

E-mail: [GulliversMom@gmail.com](mailto:GulliversMom@gmail.com)

Submitted on: 3/9/2012

Comments:

Oppose SB2089 SD1

As a resident, I urge you to OPPOSE this bill. This will hurt tourism on which our state is dependent and cause many small businesses to go under. We are just starting to come out of the tourist slump, don't put us back in with this bill. If Whaler's Real Estate and other agents are loosing business, maybe they need to improve their service, not get the state to force people their way.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jennifer Mills

Organization: Individual

E-mail: [onegr8gem2@aol.com](mailto:onegr8gem2@aol.com)

Submitted on: 3/9/2012

Comments:

I have owned a cottage in Ka'anapali, Maui at International Colony Club for over 7 years. I have desperately tried for the past two years to find someone to manage my property for me and have been turned down by every company. They all told me that they already have a large inventory of similar rentals and do not want to take on any other properties for fear of not properly representing the properties they have. If this bill passes, I will be out of business because no one will represent my property.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Rick Misco

Organization: Individual

E-mail: [misco@yahoo.com](mailto:misco@yahoo.com)

Submitted on: 3/9/2012

Comments:

Your attention please ;

I was a first time visitor to Kauai this past month. Always wanted to go, and finally succumbed to drain some of my savings account for my fiance and I for a brief period of enjoyment. Which, is in fact what i did. DRAIN IT.

The Kauai experience was nevertheless joyful all except for the mishandled joke on what it is to be a tourist there. Food, activities and just shopping to say the least of which i should have made it easy for indigenous vendors and sprayed a stencil on my back exclaiming &quot;Tourist&quot;.

So be it.

NOW, you want to raise rates on Condo owners and demand a controlling entity in which to provide an un-needed service? Quaint.

My experience with my temporary landlord was about the only thing that was wallet friendly and would actually keep me coming back. Despite the beauty of the local landscape, I've now been there and done that.

Feel free to take it one step further and shove myself and others into trying other hot spots on planet earth. Been aching to check out the Bahamas, Rio and Fiji to name a few.

Try and learn a lesson from Netflix.com ( google it).

Greed will bury your tourist industry and be the final nail in the coffin for someone like myself who counts on and affordable place to reside while visiting.

THESE rates will in fact be augmented to off set what you are trying implement to property owners who don't need some outside regime to manage &quot;their own&quot; property.

Like the Netflix people . . . You will see the error of your assertive effort, and retort back to what will be an unsuccessful attempt to gain an already lost tourist/customer base.

DON'T make this mistake. I for one would love to revisit the beautiful garden isle - but this past trip was cutting edge on my wallets sanity.

Thank you for your attention.

-Rick Misco  
Los Angeles, CA

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Pam Mueller

Organization: Individual

E-mail: [Pammuellder7@gmail.com](mailto:Pammuellder7@gmail.com)

Submitted on: 3/9/2012

Comments:

As a nonresident owner of two rental units in Wailea we are concerned with the regulations in this proposed bill. We already pay GET and TAT taxes, so it is unclear to me why the state would want to saddle us with unneeded, onerous and expensive rules.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marta Nagy

Organization: Individual

E-mail: [palms703@telus.net](mailto:palms703@telus.net)

Submitted on: 3/9/2012

Comments:

We strongly oppose this bill as we have owned and operated a vacation rental condo on Maui for the past 6 years, have a tax id #, collect and remit the correct taxes on all of our rentals. We have never had a bad experience with any guests as it is in our best interest for them to have a great time and we do everything we can to make their stay at our condo enjoyable along with providing a great deal of info on Maui and things to do that we know are good from personal experience. We have 3 on island staff that are available to assist guests with any issues. For example an elderly guest locked themselves out of the Master bedroom once and we had someone on site within 15 minutes. We also pay very hefty strata fees which include the salary of a full time on site property manager at "The Palms". We don't need anyone to collect and remit the get and tat taxes on our behalf as it is already being done. We just break even as it is and if we had to hand over the rental of our beloved condo to someone who for sure wouldn't care about it as much as we do we would be in a negative cash flow and it would no longer be financially feasible to operate our business on Maui anymore and would be forced to sell our unit. There must be a way for the state of Hawaii to enforce taxes other than this ridiculous bill. Please find another way. Investing in Hawaii will not make sense for anyone if owners are forced to pay someone to manage their condos.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Support

Testifier will be present: No

Submitted by: Gregg Nelson

Organization: Individual

E-mail: [gdnnelson@gmail.com](mailto:gdnnelson@gmail.com)

Submitted on: 3/9/2012

Comments:

Dear Committee members,

I am in total **support** of this bill. It is not perfect but at least it is an excellent attempt to address a large group of non-resident tax evaders who have for too long taken from Hawaii and not paid their fair share. Our State needs this tax revenue and deserves it. Not to broad brush others but I think most who would oppose this bill are themselves the very ones not paying their fair share. Good luck and Mahalo. Gregg Nelson

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: joyce nelson

Organization: Individual

E-mail: [joyce.nelson@shaw.ca](mailto:joyce.nelson@shaw.ca)

Submitted on: 3/9/2012

Comments:

I am very much opposed to this bill and feel it would have negative impact on an already weakened USA economy.

Joyce Nelson

Calgary, AB

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: John Nisbet

Organization: Individual

E-mail: [Sallynisbet@aol.com](mailto:Sallynisbet@aol.com)

Submitted on: 3/9/2012

Comments:

We support the State of Hawaii's need to enforce tax compliance regarding those who are not following the requirements of the laws. However, we request you oppose the passage of SB2089 SD1 and vote no, allowing for further discussion and analysis.

We appreciate that the Amended Bill has included a provision for exemption by obtaining a "tax clearance" from the Tax Department to be transmitted to the real estate commission. The Bill, however, does not establish what the criteria would be for granting the 'tax clearance' or the timeliness of the Tax Department to provide the tax exemption. We fear the Tax Department will be overly burdened with requests causing delays, which would result in noncompliance. There are times when the Tax Department takes up to two months to provide a requested tax identification number, so one can reasonably expect there would be many delays in obtaining a "tax clearance." Additionally, we do not know how we would comply with the requirement of Federal Form 990 being transmitted to the Real Estate Commission. Form 990 is for "Return of Organization Exempt From Income Tax." The annual requirement of obtaining the tax clearance may prove to be an obstacle to compliance that burdens only nonresident owners.

If the Legislature is inclined to pass this Bill, we request that the resident owners also be required to comply as there does not seem to be an inherent justification for only burdening nonresident owners with all of the requirements in this Bill. As the Attorney General suggested, "... under the Commerce Clause, the Equal Protection Clause, and/or the Privileges and Immunities Clause of the United States Constitution. Each of these clauses generally prohibit discrimination against nonresidents or discrimination in favor of "in state" residents." We would therefore request that all who provide transient accommodations be subject to the same laws.

Additionally, the Attorney General suggested, "If there are empirical evidence or studies that demonstrate that nonresident owners of transient accommodation are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, the bill would be more likely to survive a legal challenge." This Bill SB2089 HD1 is based on the premise that nonresident owners do not comply with tax requirements. In the absence of new studies as the Attorney General suggests, it is reasonable to rely upon the last studies performed by the Hawaii Tourism Authority. In 2007 the Tax Department in Testimony stated:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."

2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."

3. "The Department does not believe there is substantial non-compliance with tax obligations."

Section (a) Makes requirement of compliance only on nonresident owners (if one does not obtain a tax clearance) that it does not impose on resident owners. Further, in the circumstance of a nonresident owner who owns property in a condominium hotel they "shall employ a condominium hotel operator ..." This means that one subsection of nonresident owner is even further restricted and can ONLY hire a condominium hotel operator and no other. This seems to be unnecessarily limiting to free choice of whom to engage in the service of property management.

Section (e) of the Bill requires advertisements to include the name of the local contact. While we do not disagree with the need for a local contact, the placement of their name in an advertisement may be confusing for the consumer who is shopping for the vacation rental while viewing the advertisement. The consumer's need to contact the local agent is only applicable when they are an actual guest on-island. This further incurs additional costs in advertising (when one must pay by the line) that it does to the resident owner.

We, as nonresident owners, seek to comply with the laws and pay taxes as required. This Bill however, will put many more layers of operational compliance on nonresident owners than it does on resident owners.

The Hawaii's Tourism Authority states in their testimony of 2/2/12 regarding this Bill, "Chapter 237D already provides for penalties for engaging or continuing in the business without registering as required by the law." Additionally, the Department of Tax on 2/2/12 states the need for "increase education. .."

Again we ask you to vote no or defer the passage of SB2089 SD1. We believe that a greater focus of awareness of the laws would bring about increased compliance. We offer the following suggestions:

-Educate by Notice: It should contain language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.

Every purchase of real estate goes through Escrow. Escrow should be required to enclose the Notice. -Every property owner receives a property tax bills. The Notice should be enclosed in the mailing of the tax bills. The result would be EVERY OWNER WOULD RECEIVE NOTICE OF REQUIRED GE AND TA TAX COMPLIANCE AND STATE TAX RETURN. There would not be one property owner in the State of Hawaii who did not receive the information that they must comply if they rent transient accommodations.

In conjunction with a higher level of educational outreach, the State of Hawaii may receive a substantial amount of back due taxes by offering an amnesty program to all noncompliant transient accommodation operators to file for Tax Identification numbers and then pay their back due taxes.

This testimony applies to **Bill SB2089 SD1**

This is a bad piece of legislation and must be defeated. As a taxpayer in the State of Hawaii, I strongly oppose this law.

It will substantially increase rental costs to travelers and owners, to whom this cost will be passed through, by an estimated 25-50%. This added cost will make Hawaii destinations uncompetitive with other vacation destinations – almost all of which have a network of Rentals By Owners that are free of this 25-50% additional overhead proposed. In a tough economy this will ultimately reduce Tourism in Hawaii, and hurt all the restaurants, and small businesses that depend on Tourism to survive. It will also devastate the small, independent owners of second homes/vacation property who rent out their places to Tourists when they are not using them themselves.

Most owners handle their own bookings and report and pay their taxes as required by Law. If you are concerned about getting a higher level of compliance with the current Tax Laws in the State, then increase the penalties for those who violate the law. But don't destroy the active rental market by imposing this enormous overhead costs on property owners.

This bill, by adding a layer of expensive additional overhead cost to the cost of bringing Tourists to Hawaii, is the wrong way to increase compliance with the current Tax laws. The only ones who will benefit from this law are the Realtors, who are contributing nothing to the transaction's value, and taking a large percentage just for being the Tax Collectors for the State of Hawaii.

This proposed law will also negatively affect second home values in Hawaii. As I mentioned, many owners depend on their rental income to pay their mortgages every month. With the additional cost of 25-50% in Realtor fees, this will generate less rental income net of fees for owners. Therefore selling prices of this Real Estate will be appropriately reduced by the diminished cash flow it can generate. The net is less income for the State in Real Estate taxes, and an overall depression in property values.

Of serious concern as well is the likelihood of creating massive second home foreclosures. With a 25-50% reduction in property values, many owners will be "underwater", resulting in a high likelihood of extensive property foreclosures in Hawaii. Other second homeowners will be badly hurt and unable to cover their monthly costs if they face higher costs and reduced occupancy of their second homes.. They will be forced to unload their properties at reduced prices, thereby depressing the value of property in Hawaii, just get out from under their obligations.

The spiral of massive foreclosures will further depress property values in Hawaii. With a large glut of foreclosed properties for sale by banks and distressed homeowners, Hawaii property values will continue to fall, and in the end there will be havoc in the Hawaii Real Estate market and extensive bankruptcies and small business insolvencies.

Please defeat this bill. It is the wrong solution to enforce the payment of taxes already on the books. This law will not benefit Tourists, small businesses, or the State of Hawaii. It will lead to serious economic hardship overall for all Hawaii's home owners, mortgage holders, small businesses and ultimately the State overall.

Thank you.

Lisa Noble  
3300 Wailea Alanui  
Wailea Ekahi 43D  
Maui, Hawaii

**From:** Con Nguyen [mailto:connguyen@lincoprop.com]

**Sent:** Friday, March 09, 2012 1:36 PM

**To:** TOUTestimony

**Subject:** OPPOSE TO sb2089 AND SD1 Amended

**Sensitivity:** Confidential

Dear Sirs and Madam:

I strongly oppose to SB2089 and SD1 Amended due to these reasons below:

1. The Bill is unconstitutionally against the property right of ownership. Owners shall have right to rent their properties as long as follow the Rules and paying HI taxes which most of them do.
2. This Bill only supports realtors, who will drive up rental prices and cripple the HI economy.
3. This Bill just for punishing the good guys and let the bad guys get away and creates more bad than good.
4. In order to increase HI GET and TET, the Tax agents should be more informing and more enforcing all rentals to pay taxes or face consequence. Agent could show up in condos annual meeting to educate rental owners, collect list of owners to send them tax documents and follow up each project to next year.
5. We do not need the Realtors to do this job, state of HI could access to condos association condos uses reports to know who are rental owners. State do have those report annually.  
Please vote NO to the Bill.

ConNguyen

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Maryanne O'Brien

Organization: Individual

E-mail: [maryanne@livedynamite.com](mailto:maryanne@livedynamite.com)

Submitted on: 3/10/2012

Comments:

I deeply hope you will consider the impact of this legislation upon those of us who are able to afford coming to Maui because of the lower rental rates through owners.

We have had nothing but a positive experience renting directly. We received a fabulous packet of information that made us feel like we were locals with all of the inside information.

It's a stretch for us to come, financially. Should condo rentals rise, I guess we'll be back in Mexico for our warm weather getaways.

Please know that there are fantastic owners who effectively manage their properties and make it possible for more people to visit the island with their tourist dollars.

Sincerely,  
Maryanne O'Brien



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Kathy Ochsenein

Organization: Individual

E-mail: [dhcondos@gmail.com](mailto:dhcondos@gmail.com)

Submitted on: 3/9/2012

Comments:

I am an out-of-state owner that pays thousands of dollars of GE and TA taxes each year. If you pass this bill, you will severely impact the tourism industry in Hawaii. Most potential renters prefer to deal with owners that have a personal knowledge of the property and are able to negotiate prices, etc. Turning this over to a realtor will mean less rentals and less tax dollars for the state. Check out the tax records. Out-of-state owners are just as honest as local owners. Also, just because a realtor is in charge doesn't mean that the property is in better condition. It is often more difficult for a realtor to manage dozens of properties and keep them up than it is for an out-of-state owner to keep his property maintained with the help of the owner's onsite staff. Certainly the tourism board understands the importance of a variety of accommodations on the island and that sites such as HomeAway and VRBO are an essential part of the tourism industry on the islands. Please take a look at these sites and know that if you pass this bill, most of the ads and the subsequent income will be lost.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Craig Opfer

Organization: Individual

E-mail: [craigopfer@yahoo.com](mailto:craigopfer@yahoo.com)

Submitted on: 3/9/2012

Comments:

I have stayed on Maui several times and have rented condos from individual parties on about half of my visits. I have found that not only is it cheaper to rent from individuals, who take more pride in ownership making sure that their accommodations are well-appointed, it is a much more friendly approach than using a management agency. Hawaii is expensive to vacation in. With a limited budget for travel if this condo legislation is passed I will consider options other than Hawaii because of costs and hassle.

Sincerely,

R. Craig Opfer  
Portland, OR

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: James Osgood

Organization: Individual

E-mail: [jim@officefinder.com](mailto:jim@officefinder.com)

Submitted on: 3/9/2012

Comments:

This is an unreasonable requirement costing those of us who own property in Hawaii for rental purposes significant additional costs. I am already paying an exorbitant amount of taxes to the state. Put your efforts in enforcing the existing laws, not costing your tax providers even one penny. If you want to pass this law, you should apply a credit to the TA tax for these additional requirements.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Judy Osgood

Organization: Individual

E-mail: [Judyosgood@gmail.com](mailto:Judyosgood@gmail.com)

Submitted on: 3/9/2012

Comments:

I am so opposed to this SB2089. I have had a real estate property owner and it was a fiasco. Not only did I not get very many renters, but the cleaning people they hired took off with my linens to never be returned.

I have paid GE and TA taxes on all my guests since 2004. My renters know I have to collect and pay and pay taxes and anyone can see my returns. I feel that I am being punished. I have had a property management person on the island, just now a property management company. If a tenant has a problem, it is taken care of within hours. If this passes, I feel it will hurt the tourism in HI.

I know there are cheaters out there, let's find some other way to curb that.

In feel you are discriminating against out of state owners. I will be a resident as soon as my husband can retire. Until then, please don't force me to lose my 2nd home.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Marci Paddock

Organization: Individual

E-mail: [marcipaddock@gmail.com](mailto:marcipaddock@gmail.com)

Submitted on: 3/9/2012

Comments:

This proposed law only benefits property managers and Realtors. It will drastically raise the price of rentals due to high management costs. It also takes away our freedom to be able to manage our own property or choose who we want to hire to manage it. Many people will be forced to sell homes that have been in their family for generations because of the high cost of management fees.

**From:** Jmpatrick@aol.com [mailto:Jmpatrick@aol.com]

**Sent:** Friday, March 09, 2012 3:51 PM

**To:** TOUtestimony

**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* SB 2089 SD1, Tourism Committee Hearing March 12, 2012..9:30am

Dear Sirs. My name is James Patrick. I live at 250 Ama Kahi Way, Lahaina, Hi. 96761. I oppose the above legislation.

All attempts should be made to ensure that owners are reporting and paying taxes on any rentals. I do not think that to achieve that goal it is necessary to force owners to rent through rental agencies. This is encroaching on an owner's freedom of choice.

I believe that this legislation would result in fewer tourists choosing to visit Hawaii. This would not be a good result.

Thank you for considering this.

James Patrick.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Roy Paxson

Organization: Individual

E-mail: [msmc3234@gmail.com](mailto:msmc3234@gmail.com)

Submitted on: 3/10/2012

Comments:

I strongly oppose the SB2089 that requires vacation rentals be managed by the real estate industry in Hawaii. My wife and I own two properties in Wailea, Maui and have operated them (they are zoned for this use) for the last 7 years. We have complied with all the requirements and have submitted our TA and GE taxes every month on time. We have a person on Maui that handles issues that come up should there be any problems. We have handled all concerns, broken items, appliance repairs, in an expeditious manner. Having to hire a real estate person will not change the things and manner in which we take pride in managing our properties--it will only cost us more money (20% of the rental amounts). This is a misguided effort by the real estate industry in Hawaii to grab more money for themselves. It was the real estate industry in Hawaii that caused the huge meltdown of the real estate markets where values have dropped over 50%. The realtors, banks, and the appraisers were all inflating the bubble that finally had to burst--now you want these people to manage a very viable and thriving business that needs no control except where it has been developed illegally (into areas not properly zoned for this use). We oppose this measure since it does not fix any problems. Thank you

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Bonnie Pauli

Organization: South Maui Condos Owner Direct Rental Network

E-mail: [bonnie@mauiownercondos.com](mailto:bonnie@mauiownercondos.com)

Submitted on: 3/9/2012

Comments:

As an owner (off-island for 7 months and on-island for 5 months a year) and manager of a group of 200 South Maui property owners, I would like to offer opposition to and comment on SB2089 SD1.

Hawaii is truly a melting pot of cultures and our Aloha Spirit appreciated world wide. That the state should want to hamper tourism, discourage off-island investors and break the law without attempting to enforce laws already in place and educate buyers and tourists as to what laws are in place for their protection is unbelievable and will be very detrimental to the Hawaiian Economy for years to come.

There is room for all types of management models in Hawaii - don't allow the State to deny a viable and very popular means of bringing visitors to Hawaii.

Our group - South Maui Condos Owner Direct Rental Network, has been a member of HVCB for 9 years - we represent about 200 Hotel Zone condo owners in South Maui. We are all appalled with the process the Hawaii State House and Senate have used to force vote on bills that have been determined unconstitutional by the State Attorney General and which will force off-island owners of properties to abandon the online vrbo model unless they also pay a Realtor/RE Management company.

Even the Board of Maui Realtors has opposed this as has the State Board of Realtors. We do not believe the State will benefit - on the contrary if this bill is passed and a single group of owners is forced to hire a 3rd party to manage their property it will drive up costs to all - ending with the consumer. About 20% of the owners I have spoken too have indicated they would be forced to sell as they could no longer afford their properties. 5% have indicated they would remove their homes from the rental market. Others that the added cost of operation on one segment of owners would force them to pass the cost on to the consumer.

Any of these would be a disaster for our real estate market which has just begun to recover. Local residents, would be the hardest hit and the state would loose money in taxes as all members of our group have Maui BB license and pay GET/TAT and Hotel/VR property taxes.

We all employ an on-island representative, cleaners, handymen, etc and they like having their own small business - where would they go?

There are optional locations for Tourists to go... why would they pay higher prices to come to Maui than they have been used to?

Nearly 80% of our group began renting their condos with a Realtor or RE Management company - many have switched to the more labor intensive owner management model because they felt their homes &



renters were not being well cared for by the manager - or at least not as well cared for as the as the owner could do. Our staff has become a member of our Ohana - they care for our homes and our guests and the high occupancy for owner rentals managed this way compared to those for many realtor managed accommodations should attest that the market place is making its decision. Keeping at least half of the management fee in-house we are able to offset many costs that in this down economy would have forced us out of business and away from the retirement homes we have purchased. The retirement on Maui that we have dreamed of may no longer be a reality if the rules of play are changed.

Here are some links to documents that should be read prior to voting. I think you'll find them of interest

Legal opinion that 2089 is unconstitutional

<http://dl.dropbox.com/u/18145193/2089%20legal%20opinion%20-%20DAMON%20KEY%20LEONG%20KUPCHAK%20HASTERT.pdf>

2007 Testimony by Hawaii Dept of Taxation testifying that they do not believe there is substantial non-compliance [http://dl.dropbox.com/u/18145193/2007-04-](http://dl.dropbox.com/u/18145193/2007-04-03%20DOTAX%20Testimony%20opposing%20SB%20750%20SD%203%20HD%201.pdf)

[03%20DOTAX%20Testimony%20opposing%20SB%20750%20SD%203%20HD%201.pdf](http://dl.dropbox.com/u/18145193/2007-04-03%20DOTAX%20Testimony%20opposing%20SB%20750%20SD%203%20HD%201.pdf)

Concerns that 2089 violates NAFTA

<http://dl.dropbox.com/u/18145193/NAFTA%20and%20SB2089%20.pdf>

Please defeat this bill or modify it significantly to allow for enforcement of existing laws prior to adding new ones of the same nature.

This is a special interest bill pushed by property mgrs & realty agents losing market share due to their mismanagement and more efficient methodologies supplanting a rental model that no longer is effective. This bill will in no way increase TAT revenues or compliance thereof. If the Bill is enacted, I intend to stop vacation renting.

Bill Pawluk  
10 Wailea Ekolu place  
Maui  
Sent from my iPhone

**From:** Lynn Peabody [mailto:lynnpeabody51@gmail.com]

**Sent:** Friday, March 09, 2012 6:40 PM

**To:** TOUTestimony

**Subject:** SB 2089--OPPOSED !!!

Re: SB2089 SD1 Tourism Committee March 12, 2012

**Senate Bill 2089, with amendments, should not be passed.** I rent my condo. I pay all my taxes .Yet I still do not cover my expenses. To further burden me, or anyone renting their condo, with 25%--40% additional management fees is absurd. I, like many others, will not be able to continue renting my condo.

**If the problem is CHEATERS who rent but do not pay their taxes, then go after them !!** I totally support that. There are ways to do that without burdening those of us who are honest owners.

Thank you.

John Peabody  
3300 Wailea Alanui  
Kihei, Maui Hi 96753

From: Frank Peters [mailto:fhpeters@telus.net]  
Sent: Friday, March 09, 2012 4:14 PM  
To: TOUTestimony  
Subject: Bill SB2089

Frank and Trudy Peters owner of the Kihei Alii Kai Condo.  
Are appose the bill SB2089.

We have paid our Hi state taxes on our condo from day I  
and are been penalized for the for those who have not paid  
their taxes.

Trudy and Frank Peters

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ken Peters

Organization: Individual

E-mail: [kenp@bigislandhost.net](mailto:kenp@bigislandhost.net)

Submitted on: 3/9/2012

Comments:

Honorable Committee,

I support collection of taxes that may be due, but oppose this harsh measure. The Hawaii Attorney General submitted testimony that it may be unconstitutional as written. The Hawaii Department of Taxation testified that for the most part transient accommodation taxes are being paid.

No doubt some people may not pay taxes, but that does not justify this measure which forces owners to use "property managers" for their rentals.

The fact is that is the "property managers" did a good job, they would have plenty of business, however many do not. I have had the experience of being told by a property manager my unit was vacant, but I found a guest that had been staying there for two weeks. The property manager lied, and was attempting to keep the money I was entitled to. Do you believe that property manager would have paid the GET and TAT, while cheating the owner?

Person looking to rent from an owner do not go through property managers. They have probably had bad experiences in the past, and prefer to deal with the owner.

Might I suggest that if an owner has documentation that he has paid TAT he be exempt?

It is unfair to force an owner to pay 35% to 40% to a "property manager" from whom inferior service is obtained.

It either forces the cost of vacation rentals to rise dramatically, (that reduces tourism) or it reduces the income to an owner by 25-40% forcing them to sell (further depressing an already depressed market) due to inability to justify ownership. Who would even buy investment property in Hawaii, if they are forced to use inferior service and pay a high price to "property managers" that are forced upon them.

Please enforce the existing laws, prosecute those who do not pay their taxes, but please do not punish the owners that are struggling to make ends meet and are already paying their taxes.

Thank you

Ken Peters

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Thomas Peters

Organization: Individual

E-mail: hpeters\_2000@yahoo.com

Submitted on: 3/9/2012

Comments:

This Bill will reduce property values in the State.

This Bill will increase the cost of property ownership thereby further reducing property values.

This Bill is very UnAmerican.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gene Phipps

Organization: Individual

E-mail: [gandc123@charter.net](mailto:gandc123@charter.net)

Submitted on: 3/9/2012

Aloha: The only time we ever had any problem was when we had 2 different management companies; both were in the real estate business as well. Both were inept, unprofessional and left our guests hanging...and hardly ever rented our unit! It caused ill feelings, bad customer relations and guests that never rented or returned to Hawaii. We had to send a refund and apology for the way the management company handled the double booking. This law is not necessary; we are in compliance with all GET and TAT requirements. This law means more paperwork and more government involvement. I HOPE YOU WILL VOTE AGAINST THIS MEASURE.

Sincerely, Gene Phipps

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Lawrence Prager

Organization: Individual

E-mail: [lmprager100@gmail.com](mailto:lmprager100@gmail.com)

Submitted on: 3/9/2012

Comments:

My wife and I have vacationed many times on Maui - always renting condos - and by far the best experience we've had is renting from private owners. If this law passes we may curtail the frequency of our visits. Please reconsider.



Please stop this Bill.

How will this benefit tourism in Hawaii?

Making property owners go through either a realtor or property management group will only increase the costs of traveling to Hawaii.

Who will regulate the percentage of what the management companies will be charging the property owners?

Was this Bill proposed by the Real Estate Lobby.

Exactly, who will be benefiting from the passage of this bill?

Most owners will either pass on increases to tenants, so that they may keep their property in good repair, or else they will let their property run down because they won't have enough income to cover overhead and property beautification.

Kristine Raluy  
(323) 849-3580 home  
(818) 652-1652 cell  
(818) 846-0986 fax  
[krisraluy@aol.com](mailto:krisraluy@aol.com)  
155 Wailea Ike Place  
Unit # 82  
Wailea,  
Maui, HI

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: David Ranney

Organization: Individual

E-mail: [ranney@frontiernet.net](mailto:ranney@frontiernet.net)

Submitted on: 3/9/2012

Comments:

I oppose SB2089. I own a vacation rental and manage rental and payments myself. My property manager is Bello Realty of Kihei. I pay all transient and excise taxes and am registered with state of HI. More forced management and paperwork will increase my overhead, decrease my income, and I believe, decrease my rental volume. Please do not pass this bill. David Ranney, 2387 So. Kihei Rd B303, Kihei, HI 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: ralph ricciardi

Organization: Individual

E-mail: [ralph@rjrcpa.com](mailto:ralph@rjrcpa.com)

Submitted on: 3/9/2012

Comments:

both by wife and myself oppose bill SB2089 SD1. we believe this bill will add additional cost to rental owners and will ultimately result in less tax revenue to the state of Hawaii.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Cynthia Richardson

Organization: Individual

E-mail: [cyntravel@yahoo.com](mailto:cyntravel@yahoo.com)

Submitted on: 3/9/2012

Comments:

I would emphasize the points made above:

\*Property Managers do not give the kind of diligence to individual rentals that Owners do.

\*Many Owner Renters pay all taxes. The waiver process in the amendment is confusing in that form 990 is for Non-Profits and Charities.

\*If you are set on passing this, please put implementation at least a year away to give time for Owners to sell their property and to fulfill the bookings that are already made.

Thank you.

I am writing in opposition to SB 2089 SD1

### **Support Testimony based on Fallacy**

I read through the previous testimony. Real Estate and Property Management groups say that so much more will be collected in taxes with this legislation. This is a self-serving fallacy that has no basis in fact. There is no evidence that great hordes of vacation rental owners are not paying their taxes. An audit showed otherwise and in fact, what is more likely to happen with this ill-conceived bill is that property values would fall with a great many more condos on the market due to individual owners not being able to afford to keep them. This would reduce assessment value, the market prices being lower now, and thereby property taxes would continue their decreasing spiral. In addition those many, many owner rented vacation properties would not be in business â€” forced to sell â€” so those taxes would not be there to collect.

### **Rights to use of Property:**

I hope you are very carefully reading the testimony that is in opposition. You propose to take away rights to the use of property for a segment of citizens and exempt others, all because of an inadequate structure for assuring taxes are collected on short term vacation rentals.

### **Payment of taxes:**

Many, many owners of short term vacation rentals, like ourselves, pay our taxes on our rental income completely. We have been doing so for years. Why would legislators want to take away our property rights and penalize us for doing the right thing? The amendment says a federal tax form 990 would be filed with the Real Estate

Commission. That 990 form is related to Charities and Non-Profit organizations. This does not seem relevant.

**Problem of Realtor Management:**

Since we started short term rentals in 2002 we have tried several agencies for the management and rental of our property. It has only been since I have managed the rental end of the business that we have had any success at obtaining rentals. I put a great deal of time and care into that, which is not/ and would not be the case of an agency managing numerous properties. Of course we have an on-island agent to manage the daily care of our unit and respond to any problems that may occur.

**Time to Sell:**

Even with our moderate success in obtaining rentals, we do not cover the costs of the property through the rental income. We upgrade and care for our property. If we were to lose 20 -40% of that income to a Realtor, we would not be able to keep the property. Our negative cash flow for the property would be just too great. If you are going to boost the real estate and hotel industries in this manner, please give us a few years before it is implemented so that we can find a buyer for our property. Also, weâ€™d request that you put the implementation time at least a year in advance to allow for the bookings that have been made to be honored.

**The Purpose of this Proposed Legislation:**

It seems if the problem you are trying to solve is getting the proper taxes paid, there should be a way directed at enforcing the laws that exist. If the purpose is to support the strong lobby for hotels and realtors, maybe youâ€™ve found the way to take the individual short term vacation renters out of the market.

**Horror Stories**

There are Horror Stories on both sides of this issue. You are hearing about Property Management groups that go out of business, take their money and run. You are hearing about individual owners who donâ€™t have responsible on-island agents near their property to care for emergency situations. Both of these are the extremes. In fact Property Management groups are losing business because they charge too much to owners, forcing rental prices higher and do not give the personal attention that the one-owner rental can. In fact the State of Hawaii gets vast amounts of money from individual owners renting their condos and following the law. For those owners not following the law, both resident and non-resident, that is the problem to be addressed.

Thank you for the opportunity for Testimony.  
Cynthia Richardson

Re: Tourism Committee March 12th 9:30 am

I believe this bill to be blatantly unfair and perhaps unconstitutional.  
I feel that for those of us who diligently pay their taxes that a better approach is to enforce existing law. To aim this at non-resident owners and not resident owners seems to go against existing law. Many will be forced to sell their properties thereby driving down value and causing loss revenue.

I oppose this bill and feel a better direction is to have a law that actually enforces tax payment

Sincerely

Rob Rubin MD  
[rmalibu@charter.net](mailto:rmalibu@charter.net)  
3632 Shoreheights  
Malibu, Ca 90265

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Leanne Rousell

Organization: Individual

E-mail: [lrousell@telus.net](mailto:lrousell@telus.net)

Submitted on: 3/9/2012

Comments:

This Bill will serve to decrease tourism to Hawaii as it will increase the cost of accomodation for tourists. Therefore, it will not serve to increase tax revenue for the State and it very likely will serve to decrease tax revenue to the State as a result of decreased tourism. The reduced tax would be a result of not only less tax revenue from accomodations, but also less tax revenue on rental cars, etc. as there would be less tourists.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: John Russell

Organization: Individual

E-mail: [john.russell@ubs.com](mailto:john.russell@ubs.com)

Submitted on: 3/9/2012

Comments:

This bill makes no sense to me. I cannot imagine how it will be enforced #1. Is this proposed middelman going to be expected to go to our condo every day and check to see if someone is using the condo? Currently we pay our taxes monthly via the Hawaii state website. So now we will pay someone to do the same thing for us? What would stop someone from saying their unit was rented for 15 days instead of 30? This is adding a cost which will only negatively impact the value of rental real estate and in practice will change nothing. I will not buy another rental property in Hawaii if, in addition to paying about 14% in GET and TA taxes I am going to have to pay someone else for no good reason. Please vote against this bill.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Louise Russell

Organization: Individual

E-mail: [simplystyling@hawaii.rr.com](mailto:simplystyling@hawaii.rr.com)

Submitted on: 3/9/2012

Comments:

I own and operate a very successful cleaning service for the past 15 years. This bill will close my business down. I know my clients all pay their taxes as I pay mine. If this bill goes through it will increase the cost to the tourist therefore reducing out trade. I think there are many other simpler ways to collect the taxes than this measure. Please remember we rely on Tourism for our dollars. Why don't you just hire a couple more tax collectors to concentrate on this. So once again the few spoil it for the many. I think you will be surprised at how much more you will lose if this bill is passed.

Kim & Paul Sanderson  
15074 Royal Avenue  
White Rock BC Canada  
[k-sanderson@shaw.ca](mailto:k-sanderson@shaw.ca)

March 8, 2012

Dear Tourism Committee:

**Re: Opposed SD2089 SD1**

***“There is no greater act of hospitality,  
than to embrace a stranger as one’s own.”***

I am writing to express **my opposition to SD2089SD1**. I have many reasons for being opposed and suggestions for your consideration.

We own two condos in Kauai. I love managing them, and my reviews are spectacular! My guests are treated like family - honestly. I don't want a property manager or realtor involved in any way in my business/vacation home. My experience, and many others' experiences with property managers, has been that they didn't care much at all; they are just providing a bed for a rate. No doubt, that is one reason why their business is suffering - it isn't only the internet that is making them lose business! We are ambassadors for Kauai; we care greatly in every aspect of it and our guests' experiences during their stay. Before, someone becomes I guest I feel very comfortable they will treat our home and your island with care.

What I support:

- Paying taxes, we've paid every cent of tax and I totally support that.
- Creating an educational campaign ensuring every owner knows the rules and how to comply with them.
- Making it extremely painful should someone not pay his or her taxes.
- Asking that we add tax numbers to our ads.
- Insisting we post all the phone numbers on the inside of door. Include our on-island resident managers, our handymen, our cleaners, so that guests know all that information and cant easily see it (similar to fire escape plans on hotels).

**Just don't legislate property managers or realtors handle my bookings, communicating with my guests or dealing with my payments!**

Con't

The exemption that was added to SD2089 SD1 last week is unbelievably confusing. I've heard from Legislative Aids that it was typo - not 990 but in fact, it should be 1099. It isn't clear, it is confusing and it won't solve the problem (which hasn't really been defined by the way!) At the very least, have this sorted out and thought thru before you create a bill that is this confrontational and upsetting to owners, tourists and businesses.

In summation, I'm opposed because:

- There is no evidence, no reports, nothing that I can find (and I've emailed Senators many times in the last 2 weeks) to outline the extent of the problem. The only thing I've seen is testimony from property managers that they are losing business. It is a flawed bill as there is nothing to support its reason for being. I can't understand how a bill can be created without proper evidence - that continues to baffle me!!!
- I don't want a property manager involved in any way in my home. I can't afford to pay them the 25 - 50%, but more importantly I **don't want them involved as I don't trust them and I wouldn't put my guests, or my beloved vacation home in their hands.** I love taking great care of my guests, they love it, and property managers won't do that! **We'd sell if it came to that. Our guests have told they wouldn't return.**
- I don't understand the exemption at all. It is confusing, incomplete and possibly incorrect. I have no idea what the intent of it was. I can't figure out the amendment, because I suspect it isn't known (which is completely unacceptable to create a bill and not have it thought thru). I'm Canadian and I've been told we aren't permitted to file a 1099, if that is actually the correct form (which hasn't been determined).

I work in government communications in Canada, I'd be delighted to assist in a communications campaign to educate people on what they need to do to comply different rules and regulations (this is something I found extremely confusing when we began being a host); I'd be happy to contribute positively to committees on the issue and help find solutions, but don't force something like this that could have huge impacts on tourism, on real estate and the economy on us. Worst of all, it would prevent us from owning our piece of paradise that we so love and enjoy sharing with others!

Please kill this bill!

Kim & Paul Sanderson

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Brian Sanford

Organization: Individual

E-mail: [bsanford@owc.net](mailto:bsanford@owc.net)

Submitted on: 3/9/2012

Comments:

I am opposed to SB 2089. I have been a condo property owner on Maui for over 20 years. During that time I have always paid ALL of the GET and TAT taxes owed. If this bill passes, it will increase my costs so much, that I will not be able to rent for a profit. In that case, I will be forced to sell my property. This is just very unfair. I urge you to vote no for this bill.

I would respectfully like to submit the following statement with regard to the above Bill.

I was raised on Maui in the '70s about 3 miles away from our current condo, in Grand Champions, Wailea, Maui. We have been visiting the Islands and our Ohana for years. One day, we hope to make a more permanent move back to Maui. Maui is our home.

We rent out our condo on VRBO without a property manager, but with the assistance of a local cleaning service and handyman. In all, I believe we support the livelihoods of approximately 7 local taxpaying Hawaii residents / businesses. We went through three different professional property management firms before moving to renting independently, finding that none of them cared for our home away from home in a satisfactory manner. For the most part, they showed no concern about packing as many people as possible in our home, resulting in excessive wear and tear and also the annoyance of our neighbors. They charged excessive fees for little effort -- in fact, for the most part, they simply obtained renters through the same VRBO site that I currently utilize. If faced with the prospect of hiring a property manager again, I believe that I would simply discontinue renting out our condo, resulting in not only a loss of income for me and the local businesses that I work with, but also a loss of excise tax and TAT tax to the State.

I see no public interest in the adoption of Bill 2089 SD1 -- it appears to be purely a move by a lobby group to gain financial benefit through the legislative process. This is an improper use of the State's resources, in my opinion, and a poor reflection on the integrity of the legislative body, if adopted.

Respectfully submitted,

David "Kawika" Saul  
81 Devonshire Cir  
San Carlos, CA 94070

Maui address; 155 Wailea Ike Pl, #56  
Wailea, HI 96753

*As a resident I request you oppose the passage of SB2089 SD1 and vote NO to allow for further discussion and analysis. It is redundant and therefore unnecessary.*

*If there are empirical evidence or studies that demonstrate that any owners, resident or not, of transient accommodations are not paying transient accommodation and general excise taxes, or are non-compliant with county zoning requirements, then appropriate legal action within current laws should be enforced.*

*Educate by a Notice. It should contain language regarding all the tax, posting, collection and payment of GE and TA taxes, emergency local contact, etc. that are requirements. A website posted by the Department of Taxation that fully describes the requirements and how to go about meeting them should be given in the Notice.*

*Costs could increase for all owners, and only the real estate industry gains. Help maintain a good tourist trade and enforce current laws, do not make more useless laws like the IRS so that requirements keep piling on to no significant purpose, but just drains the economy.*

Phil Schultz  
224 Kamaoi Loop  
Kihei, HI 96753

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Geoffrey Scotton

Organization: Individual

E-mail: [geoff.scotton@frontier.com](mailto:geoff.scotton@frontier.com)

Submitted on: 3/9/2012

Comments:

I purchased and have been operating a legal short rental condominium property in the Kaanapali resort area of Maui 10 years ago. Since that time I have faithfully remitted almost \$50,000 in TA and GE taxes. We provide for on-site maintenance staff through the association, full access to front desk check-in facilities and hotel bell services and a superior quality of cleaning services with a local small business. We have continuously invested in upgrades to the unit to the extent of \$150,000 invested with work and material through local businesses. The very high number of returning guests, occupancy over 90% and being booked up a over a year in advance are all indicative that this is the service that regular Hawaii visitors are looking for and recommendations to friends are a frequent occurrence.

I find it unfortunate that there seems to be very little facts associated with the need for this bill. In 2007, the Hawaii tax department performed a study of 305 transient rental and bed-and-breakfast establishments. Their findings were documented in April 3, 2007 testimony for SB 750 SD 3 HD 1. Specifically they say "the department concluded, for the most part, transient accommodations providers are tax compliant." It goes on to say, regarding accommodations in non-zoning compliant areas "the Committee must be recognizant that increased scrutiny of these rentals may drive tax compliant taxpayers underground." Finally, the tax department testimony concludes "The department does not believe there is substantial non-compliance with tax obligations".

What evidence is there that the situation between 2007 and now has changed. Why is it that the bill is targeting owners that are tax compliant and requiring them to purchase a service for which they have no need and will significantly reduce their ability to be able to afford to continue to own and rent their unit.

This law will change a small business operation for me that is now operating in the black after many years of investment and building a customer base. That will no longer be the case if this bill is approved. I, like many other owners, will not be able to sustain the additional 30-40% "fees" applied for what I am already doing. Undoubtedly this will have a devastating effect on both the local real-estate market and small-businesses those service these units.

This is a bad bill for owners that have made significant investments in Hawaii, it is a bad bill for the Hawaii small businesses that are employed by those owners and is a bad bill for Hawaii, in that is is entirely unclear if it will increase tax revenue and will certainly have further impact on an already depressed real estate market.

I humbly request that you do the right thing and reject SB 2089.

Thank you  
Geoff

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Paul Shields

Organization: Sunshine & Rainbows LLC

E-mail: [paul@SunshineRainbows.com](mailto:paul@SunshineRainbows.com)

Submitted on: 3/9/2012

Comments:

What we have here is Real Estate brokers who are not doing well in this poor economy, trying to persuade you guys into passing laws that will force us off islanders to pay them to rent out our properties, because some owners don't pay their taxes. You have a tool for that. Put a lien on their property, don't punish the rest of us who follow the rules.

We do pay out taxes, we follow the rules, but will be put out of business because these greedy Real Estate people who don't want to make a living any other way, want to take our freedom away.

I have said this before. I can't vote for you, but I can make darn sure that the people who I can no longer employ because you and the Real Estate people put me out of business, who can vote for you and against you, are aware of who it was that passed this bill and put us out of business and therefore made them unemployed.



**From:** fgsickler@comcast.net [mailto:fgsickler@comcast.net]  
**Sent:** Friday, March 09, 2012 11:39 PM  
**To:** TOUtestimony  
**Subject:** testing

Reference SB2089 SD1.

I want to express my opposition to this bill. I have been renting my condo to people who enjoy HI for near 22 y rs. I went thru the largest rental agency for about 16 of those years. In order to make it financially I advertised and placed my own tenants so I had to pay an owner booking fee of 5%. I lost most of the tenants booked by the agency due to poor service by the agency. When their agent on duty fell asleep and left my customers stranded at 1:00 AM I had enough and have been doing it all myself since that time. I have one condo and personally talk to each one prior to their entering my condo. I develop a personal relationship with the people and therefore have primarily repeat customers. An agency managing multiple units simply cannot compete with the personable service provided by an owner who's livelihood depends on it. Please do not force me to pay some uninterested agency employee 30 to 50% commission for inferior service. I am 78 years old and simply cannot afford to do that. I pay my taxes and have done so for over 20 years. If some people or agencies don't pay their taxes, go after them and don't penalize those that obey the law and are working hard to provide the good service that our customers deserve. My guest book clearly reflects what my customers think of the service they are getting. I get many calls from potential customers looking owners they can use and get away from the impersonal agencies. We have laws that cover the payment of taxes, we do not need more. Enforce the ones we have. The passage of this bill will cost the state a considerable amount in taxes.

Fred Sickler  
8530 Frederick Pl  
Edmonds, WA 98026  
425-776-3521

**From:** Mike & Kathy Solberg [mailto:mk98042@gmail.com]

**Sent:** Friday, March 09, 2012 3:01 PM

**To:** TOUTestimony

**Subject:** Opposing SB2089 SD1 Amended

The better way to handle this issue is to enforce existing Hawaii law.

Michael Solberg

13818 SE 251st

Kent, WA 98042

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Andy Starkie

Organization: Individual

E-mail: [starguire@aol.com](mailto:starguire@aol.com)

Submitted on: 3/8/2012

Comments:

This is a poorly written bill and has not been thought out. I urge you not to pass this bill. Enforce the tax laws you have - do not create more bureaucratic red tape. This bill is discriminatory and unconstitutional and may even go against NAFTA. The huge amount of testimony against this bill has gone on deaf ears. PLEASE do not pass this bill for the good of the state of Hawaii.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Pat Starkie

Organization: Individual

E-mail: [pjswims@aol.com](mailto:pjswims@aol.com)

Submitted on: 3/8/2012

Comments:

The bill is still very confusing and not in the best interest of the state of Hawaii. It will not enforce the paying of TA taxes. It is still discriminatory and goes against constitutional property owner rights. I urge you to read the piles of emails and testimony sent in to you by non-resident homeowners and many resident homeowners too!! Do your homework and think about the repercussions of mandating homeowners to use a realtor. What about free choice? And why are you discriminating against non-residents? It is still a poorly written bill even though I see that you are trying to "recognize" the compliant people, but now the "compliant" people will still have to file unnecessary paperwork - bureaucratic red tape. Many people have chosen to invest in your state, and by passing this law, you are making it much less appealing to invest in the state of Hawaii. PLEASE READ THE TESTIMONY!!! We are a group of educated people who know how to run our vacation rental businesses, pay our taxes, employ local help, and do a very good job!! We are your ambassadors. The bill is not appropriate for collecting taxes.

Dear Sir:

I strongly recommend you do NOT support SB2089. It is very unfair to FORCE an owner to use an agent to rent their condo. We have been an owner of two units in Maui for several years and have been diligently trying to rent our condo, pay all of our bills, including real estate taxes, excise taxes and the transient accommodation taxes. If you pass this bill it is simply another "tax" with no added value to the Owner. Frankly, I think this bill is bad legislation and will damage the real estate market for the foreseeable future. Given the losses the market has incurred in the past several years this legislation is adding to the downward trend. Please feel free to contact me if you would like to discuss this legislation.

Terry Sternberg  
8 Monte Vista Avenue  
Larkspur, CA 94939  
Tel: 415 927 0820  
Cell: 415 990 2555  
Email: [Tjsternb@aol.com](mailto:Tjsternb@aol.com)

I am writing today to voice my strong opposition to SB2089 SD1 Amended. I have been a home-owner/renter of my properties for nearly 5 years. During this time, I have seen the islands go through some tumultuous times. While I understand the need for the state to police the payment of taxes from renters of personal properties, I don't believe this law is the way to do it. Here are my reasons why:

- I initially used a property management company to rent out my property. Even though they were located on-site, they did a horrible job of maintaining my home, allowed things to go on that were illegal and/or inappropriate and refused to make my tax payments for me (and for this, I was given the great opportunity to give them 40% of my rental income). They still exist on-site, but I hear from homeowners all the time that the issues I had 4 years ago are still going on.
- Because of the 40-50% commissions that property managers charge, the pricing of my units would go from an average of \$250/nt to \$450/nt. Now that would seem a great tax win for the state. In my experience though, people who rent homes/condos of similar size/location as mine refuse to pay that amount of money more than 50% of the time, thus it would come back to hurt the consumer/state.
- Tourism has been expanding in the past 12 months. If rents increase by 40-50%, I think the state will begin to see a dwindling of this increase and it could cause another recession.
- I purchased a 2<sup>nd</sup> condo 18 months ago for investment income. If this law is enacted, I will sell that condo. Does Hawaii need more homes for sale in this environment?
- I currently pay over \$20,000/year in transient, general excise and personal income taxes. If this law is enacted, I will not rent my home anymore. I cannot take the risk of lax property managers not taking care of what I hope to be my retirement location someday.

Here are things that you could do:

- Require that all homeowners list their Tax ID's on their VRBO/Homeaway/Similar Websites. That would make it easy to check if they are paying their taxes.
- Hire a few tax collectors. That would be much cheaper and would bring in the money you are looking for.
- Find new ways to educate people (easily) on what they should be doing—this is a problem I know of first-hand since I have had to personally help many people in my complex navigate how to sign up for a tax id and how to pay their taxes.

While I am sure there are tax evaders (as there will always be), this law is not the way to solve the issue. You should be encouraging small business owners like me and not discouraging investments in your state. I would believe that this law would be unconstitutional since I am a non-resident with no voting power and it could open the state up to many law-suits (or a few class-action ones).

Thank you for your time—Jim and Debbie Stofer, Business Name "Halii Kai 5F/8C"

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Jim and Debbie Stofer

Organization: Individual

E-mail: [jimstofer@comcast.net](mailto:jimstofer@comcast.net)

Submitted on: 3/9/2012

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Chris Stokes

Organization: Individual

E-mail: [cstokes@bentallkennedy.com](mailto:cstokes@bentallkennedy.com)

Submitted on: 3/9/2012

Comments:

I have just finalized our accommodation in Maui for December 2012, which will be the fourth year in a row that our family will spent our Christmas vacation in Maui. We have rented our accommodation every year through direct contact with the condo owner, and we have had nothing but a positive experience every year. We briefly tried to deal through a third party management agency the first year we came, but our experience was unsatisfactory - it was difficult to find the accommodation we really wanted, and the prices were higher. If this bill was to pass such that we would have to experience that again, it would definitely have a negative impact on our desire to return to maui in future years. I think you should just let the market work this issue out - i.e. people who want/require a third party manager to rent their condos should have the ability to do so, but people who don't want/require that service should still have the ability to use a system like VRBO, which is in place all over North America.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Gregory A. Stone

Organization: Individual

E-mail: [inlandiron@aol.com](mailto:inlandiron@aol.com)

Submitted on: 3/9/2012

Comments:

We've used property managers in the past and were required to make too many unnecessary improvements. We feel that property managers too often know vendors that would like to perform remodel projects at our Condo as often as possible.



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Virginia Surprenant

Organization: Individual

E-mail: [pfh4ginny@sbcglobal.net](mailto:pfh4ginny@sbcglobal.net)

Submitted on: 3/9/2012

Comments:

Dear Sirs:

As a part-time resident of Maui and owner of rental property in Lahaina, I urge you to vote

&#226;€œno&#226;€ on SB2089 SD1. It will not improve collections on taxes and in fact, will decrease tax collections for the State of Hawaii by:

1) The price of renting a condo or other rental property will go up, since the revenue would have to be split between the owner and the Hawaii real estate agent. Just look at the prices that management companies charge.

2) Less visitors to Hawaii means less money spent on souvenirs and shopping, local activities and sight seeing, restaurants and groceries, rental cars and transportation, etc.

3) The value of real estate will go down as owning a condo or other rental property on Maui has all of a sudden become prohibitively expensive to own and prices must decrease for owning to make economic sense, especially during a recession.

4) A management company managing hundreds of unit cannot be as efficient and achieve the high occupancy that a private owner can. As a result, occupancies will fall, hurting everyone, including the State of Hawaii tax collections.

Affected people include almost anyone and everyone who lives in Hawaii, including cleaning and maintenance people, plumbers, carpenters, furniture stores, retail businesses, painters, car rental agency workers, electricians, contractors, restaurant workers, shops, bankers, airline industries, and even real estate agents.

There are other ways of collecting taxes with existing Hawaiian laws without putting the real estate agents in charge of collecting taxes and managing the private owner&#226;€™s investment-HB 1707 is not the answer to this. This is an obvious attempt by real estate managing companies to monopolize the tourist industry and shut out the individual owners.

Please, vote NO on SB2089 SD1.

Mahalo,

Virginia Surprenant

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Barbara Thurber

Organization: Individual

E-mail: [thurbphoto@gmail.com](mailto:thurbphoto@gmail.com)

Submitted on: 3/9/2012

Comments:

We have rented from both condo owners and from management companies. The condition of the condos when rented directly from the owners has always been superior and a better value than when we have rented from a management company. For instance, when we rented a condo in Kauai, we asked specifically if there were any plans for demolition, etc of the hurricane damaged property next door to our our propoerty. We were assured that there were no future plans. When we arrived we were met by the pervasive sound of wrecking balls, back up beeping on large trucks, and complete lack of any concern from the management company. I am certain that if we had asked that question from a property owner we would not have been misled. Needless to say, our 25th anniversary trip for 10 days was not enjoyed from the lanai.

## **Torchiana, Maynard**

---

**Subject:**

FW: HB 1707/HB 2078

**From:** Torchiana, Maynard

**Sent:** Wednesday, February 22, 2012 8:39 AM

**To:** 'repmoshiro@Capitol.hawaii.gov'

**Cc:** Allan Raikes (allan@crhmaui.com)

**Subject:** HB 1707

Aloha Representative Oshiro

I humbly request that you pass this legislation as it is long overdue. Having a large property management company, employing over 120 people, providing health insurance free of charge and providing a 401K with matching employer contributions is the way to do business that supports Hawaii's economy and provides benefits for families. More importantly we collect and pay, on behalf of over 200 owners on our rental program, their GET and TAT taxes to the State. What concerns be and always has is that VRBO and Home Away are not regulated and the Broker requirement to do business is not mandated. I can also assure you that close to 30% of those on VRBO do not pay TAT or in most cases GET. Particularly Canadian listings on these owner sites.

Unrelated but a good example for your to ponder. Last year at a Maui Visitors Bureau Board meeting we got into a discussion about property tax classifications, Hotel versus 2<sup>nd</sup> home. I know this is County but State and County should work together. As you know the difference is significant. A 2<sup>nd</sup> home or 6 month rental pays around \$5.00 per \$1,000 of assessed valuation while a transient pays over \$9.00. So we had a secretary, who knew which units were rented as transients and which were not in a certain Condominium complex. She went down to the tax office and pulled up the records and discovered 20 out of the 50 that were transient rentals were paying 2<sup>nd</sup> home rate. Let's assume the value is \$500,000 average for each unit. Numbers are roughly estimated but in 2 hours of a secretary's time she found \$50,000 that should be paid in property taxes. Now let's assume those same 20 are not paying GET or TAT. Let's assume each of the 20 units generates \$50,000 in annual taxable rental income. That's another \$130,000 that the State could be losing. Now put it in perspective. There are over 20,000 condominiums on Maui and the sample we used has 120 units. Do the math. What seems to happen is the State and County continue to raise taxes rather than collect what they should. It is so simple to check. Take all the VRBO listings and cross check with tax records and then cross check with TAT and GET filings and see what the result is.

Another suggestion might be to require all management companies to collect and pay GET and TAT for all owners it represents, but that only works if you require the same for VRBO and other similar sites. These sites should be held to the same standards that properly licensed management companies are expected to. Maui County passed legislation requiring all Condominium Homeowners Associations to annually report the classification of each unit in the project. Resident Owner, 2<sup>nd</sup> Home, Long Term Rental or Transient. The law goes on say that if the Association were to be less than truthful that the entire project could be re-classified for all owners at the highest rate.

Both the State and County pass legislation without plans to enforce what they pass. If the State were to pay someone a 5% commission to review all VRBO sites and check against County property taxes and GET, TAT I can assure you you would be looking at millions of dollars of lost revenues for both the State and County.

Thank you for your time and consideration.

Mahalo nui loa,

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Rodney, Lois and Bradley Tomlinson

Organization: Individual

E-mail: rltomlinson@shaw.ca

Submitted on: 3/9/2012

Comments:

Owners, whether resident or non-resident have too much invested to let the collection and payment of taxes be a cause for being charged with a taxation offence. Everyone that I know have invested in the hiring of a tax accountant to ensure compliance with IRS and State tax requirements.

This discriminatory Bill is moving the issue of collecting taxes from the frying pan to the fire. Will it be easier or more difficult to ensure that all are using agents?

The overall effect of this proposal upon the State economy and upon tourism is definitely a move toward the downturn of both.

Details in my attached Testimony.

Rod Tomlinson

808-874-5803

## **RE: SB 2089 - RELATING TO TRANSIENT ACCOMODATIONS**

### **NOT SUPPORTED**

#### **OUR INVESTMENT**

Passage of this Bill will have wide ranging negative financial and economic implications for the State of Hawaii as well as a great many honest taxpayers who have made a substantial investment in the tourist industry and other parts of the Hawaiian economy through their enterprise. In addition to our recent investment in a Hawaiian property:

- We have spent thousands of dollars buying furniture and upgrades to make our unit appealing to visitors.
- We hired a local accountant to ensure that our taxes, including the GET and TAT we were paid in a timely and efficient manner.
- We hired a local resident who is our point of contact person who responds to the needs of our guests and ensures that the unit is clean and well maintained.
- Our homeowner's payments ensure that there is an on-site manager available on a daily basis to help in emergencies.

#### **AGENTS VS OWNERS**

We believe that non-resident owners like us have a very high interest in good management because of their financial investment and:

- Are simply not willing to take the risk of losing their investment by failure to meet the tax requirements of the IRS and state taxation authorities.

- Work over-time to ensure that their renters are provided with a quality accommodation and tourist experience.
- Make an extra effort toward keeping their accommodation well maintained.
- Ensure that guests have a set of compliance guidelines reflecting the owner's expectations as well as the condo rules and local by-laws.

We find that the use of rental agents is objectionable because:

- The additional cost will be prohibitive to renters making it hard to attract tourists.
- It will put the cost of running our unit in deficit making it impossible to meet our loan obligations leading to foreclosure or other financial losses.
- Many negative experiences have been noted with agents over time including;
  - Poor checking of potential guests leading to rentals to unsavory people;
  - Poor management of the care of the unit including poor cleanliness, thefts and breakages;
  - Low investment in the sales and advertising work toward keeping vacancies low and occupancy high;
  - Poor attitude toward and ability for providing for guests who have complaints, needs and concerns;
  - Fraudulent rentals with no compensation for the owner or the tax department.

### **DISCRIMINATORY LEGISLATION**

This legislation targets only "non-resident" owners which is discriminatory and according to legal advice is unconstitutional. There is no clear evidence that non resident owners are delinquent in paying the GET and the TAT as compared to resident owners. In fact, it is interesting to note, that all of the owners in my neighborhood who list with an on-line listing service include a 13.42% taxation charge as an addition to their rental rates.

### **ENFORCEMENT OF LEGISLATION**

Legislation change should work toward developing methods to enforce existing laws. An example might be to require **all** owners to engage a tax accountant to ensure that taxes are being paid. This would be much less costly for owners and would leave control of day to day operations in their hands while providing the Taxation Department with a reliable and ethically professional group to work with. Bill SB 2089, as it stands, simply changes the delinquent behavior from "not paying taxes" to "not hiring an agent". It appears that the proposed new legislation will be every bit as difficult to enforce and thus prone to failure as the existing legislation's problem collecting taxes.

### **REAL ESTATE LOBBY**

There is considerable concern amongst owners that there is a rental agent lobby at work here. This is supported by the sense that this Bill has been moving along too quickly without a fair chance for those homeowners who object to the Bill to study the issue and share their objections. On the other hand, the rental agents and others with a great deal to gain financially seem to have had advanced notice. The indefinite deferment of the House

Bill 1707 to the Senate Bill 2089 which appears to have passed Second Reading is upsetting and we respectfully request that the process be slowed to ensure fairness.

### **HAWAIIAN ECONOMY**

It is thought that this legislation will have long term negative effect on the economy of Hawaii from a slump in tourism for want of high quality economy rentals to another slump in the Real Estate market due to dumping of properties on the market by discouraged non-resident owners.

### **COST TO TOURISTS**

It is expected that this Bill will add considerably to the rental fee for tourists. Because we manage our own bookings, we provide a good quality and reasonably priced accommodation which will disappear from the market. I was recently told that the agents who handle rentals for owners at the Maui Banyon take 55% of the rental receipt from all rentals. Since most of us owners who manage our own rentals do so on a break-even basis, we will be right out of the market.

Dear Committee Chair Tom Brower and the Tourism Committee,

Let us first say that we understand the need for the State of Hawaii to collect the taxes that it is owed. However the current legislation SB 2089 seems to us to have inherent problems and we are asking that you oppose this bill:

- 1) On August 1, 2010 we purchased a condominium on the Big Island that we use as a second home (where we plan to retire to) and vacation rental. We have created a very successful and legitimate business. Originally when we started our business we applied for and received a General Excise Tax License and Transient Accommodations Tax Certificate of Registration from the state of Hawaii. We pay our Transient Accommodations and General Exercise Tax monthly (we have never paid late) and we have completed the Hawaii State Tax Return for 2010 and will do so for 2011.

Given that we are operating a legitimate business it does seem unjust that the State of Hawaii might determine that we can't manage our own business. That does not seem like the American Way.

- 2) We are concerned for any legislation that would hamper the housing recovery. From our vantage point we believe this legislation would push more homes/condos into foreclosure. For a person to hire a property management company/ licensed real estate agent or broker, 25% to 40% of the rental income would go to the property management company. For many people that increased cost would push them into foreclosure. Our complex only has 20 units and one is already in foreclosure. The increase in foreclosures would reduce property values. So would the reduction in potential rental income.

A byproduct of the reduced property values would be the reduced property tax that the State of Hawaii is able to collect.

- 3) We also question the assumption that someone who lives on the Island where their rental property is located is more likely to pay the Transient Accommodations' and General Excise Tax. We are not sure that is the case and the way the current legislation is written seems discriminatory.
- 4) We also want to address the quality of service issue. There seems to be a belief that you will receive far superior service if you have a property management company/

licensed real estate agent or broker to rent from rather than renting from someone who lives off Island. As we noted before we have owned our condo for only a year and half. During that time we have never had a week vacancy. We have great reviews from our guests, return business and lots of referrals. Our complex has a resident manager and we have a fabulous on island contact that we pay to immediately address our guests concerns and to inspect our condo after each guest leaves and new guests arrive. My husband and I are also available by phone or email for our guests.

There are a number of condos in our complex managed by property management companies/ licensed real estate agent or broker. When we have been staying at our condo we have meet several disgruntled guests who have rented from those companies. Good service is not guaranteed just because you rented your vacation rental from a property management company/ licensed real estate agent or broker. As we advertise through web sites we can only afford to have good reviews. One bad review and our business would suffer dramatically. I am proud to say we have only had excellent reviews and they consistently comment on the high quality of the service that they receive and that our accommodations exceeded their expectations.

Given the above it seems to us that there should be a better way to address this problem. In the least, legitimate businesses like ours should be able to have an exclusion from having to use a property management company/licensed real estate agent or broker. There should be some way for the State of Hawaii to increase the number of businesses that pay the Transient Accommodations and General Excise tax without taking away the right of licensed and tax paying business owners to manage their own properties.

We are partners with you in the Hawaii Tourism business and future permanent Hawaii residents. We want Hawaii to be financially sound and to receive the tax income that it is owed. However we feel strongly that SB 2089 is not the right means to that end.

Thank you for your time and consideration,

Janice Townsend



Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Han Tunggal

Organization: Individual

E-mail: [hantunggal@gmail.com](mailto:hantunggal@gmail.com)

Submitted on: 3/9/2012

Comments:

I am writing to oppose bills HB1707 and SB2089

We have successfully promoted and rented our condo to a lot of happy vacationers since 2006. One of the many attractions we condo owners offer to would be tourists, is that we provide a home away from home experience that typical hotels or resorts cannot offer. Given that choice, many tourists would prefer to rent a condo with all of the amenities they could get from their own homes compared to the more expensive options of a typical hotel settings. By offering a condo with the comfort of a home and with a very competitive price point, in our own small way, we have contributed to and benefited the State of Hawaii's tourism efforts and overall economy. With a successful program that yielded many renters, we also contributed to the State of Hawaii's coffers by paying regular GET and TAT.

We have a licensed realtor/property manager in town to help us maintain the condo or be our mediator if there is any problem that need an immediate solution. Other than that, our property manager does not really bring us any significant business. They were only able to book 2 renters for a total of 15 nights for the whole 2011. With the way their businesses are set-up, most realtors/property managers are not prepared to promote and run our condos the way we would on our own. Further, with at least 25% commission, how do you expect us to maintain our investments and pay all our expenses which include the high cost of H.O.A. fee?

We work hard everyday and ,sometimes, do not even make any profit from this investment. And in these down market conditions, we cannot even sell it without losing a lot of money. If this bill passes, we condo owners would simply cease promoting our condos for short term rental. Without competition, hotels and resorts would increase their prices and, as a consequence, a lot of tourists will skip vacationing in Hawaii because of the high cost of the plane fares, accommodations, and food.

Please listen to our voices. Please do not pass this bill.

Thank you,  
Han Tunggal

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Hera Tunggal

Organization: Individual

E-mail: [heratunggal@gmail.com](mailto:heratunggal@gmail.com)

Submitted on: 3/9/2012

Comments:

I am writing to oppose bills HB1707 and SB2089

We have successfully promoted and rented our condo to a lot of happy vacationers since 2006. One of the many attractions we condo owners offer to would be tourists, is that we provide a home away from home experience that typical hotels or resorts cannot offer. Given that choice, many tourists would prefer to rent a condo with all of the amenities they could get from their own homes compared to the more expensive options of a typical hotel settings. By offering a condo with the comfort of a home and with a very competitive price point, in our own small way, we have contributed to and benefited the State of Hawaii's tourism efforts and overall economy. With a successful program that yielded many renters, we also contributed to the State of Hawaii's coffers by paying regular GET and TAT.

We have a licensed realtor/property manager in town to help us maintain the condo or be our mediator if there is any problem that need an immediate solution. Other than that, our property manager does not really bring us any significant business. They were only able to book 2 renters for a total of 15 nights for the whole 2011. With the way their businesses are set-up, most realtors/property managers are not prepared to promote and run our condos the way we would on our own. Further, with at least 25% commission, how do you expect us to maintain our investments and pay all our expenses which include the high cost of H.O.A. fee?

We work hard everyday and ,sometimes, do not even make any profit from this investment. And in these down market conditions, we cannot even sell it without losing a lot of money. If this bill passes, we condo owners would simply cease promoting our condos for short term rental. Without competition, hotels and resorts would increase their prices and, as a consequence, a lot of tourists will skip vacationing in Hawaii because of the high cost of the plane fares, accommodations, and food.

Please listen to our voices. Please do not pass this bill.

Thank you,  
Hera Tunggal

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Martin Turock

Organization: Individual

E-mail: [turock@me.com](mailto:turock@me.com)

Submitted on: 3/9/2012

Comments:

I, along with a number of family and friends have been renting condominiums at Kamaole Sands in Kihei, Maui for a number of years now. We have found the process of working directly through the Owners to be a very positive experience. When specific information is needed for things like wireless internet passwords, or minor repair work that needs to be done, it is of great benefit to the Renter to be able to get things taken care of directly through the Owner in real time.

In contrast, when we have rented condominiums and homes in the Palm Springs area where we have had to deal with Property Management Agents, the Renter now needs to deal with long complicated deposit and contract documents, and is not sure if the Agent is being forthcoming with availability and rate information based on looking to optimize fees and commissions from multiple properties and multiple clients. And inevitably, adding a Property Management Company with an incremental service fee and commission will only result in higher prices to all Renters.

I, and the ~25 family members and friends who annually lease rental properties on Maui STRONGLY OPPOSE this proposed legislation.

**MARSHA VAUGHN, LSCW**

2513 San Mateo Street  
Richmond, CA 94804  
(510) 526-1994  
(510) 206-4619 cell

Committee on Tourism  
Hawaii State Representatives  
March 8, 2012

Re: SB 2089- SD1

Dear Committee Members,

I strongly OPPOSE SB2089- SD1 for the following reasons:

1. This bill is discriminatory against non-residents and as such unconstitutional. Much testimony has been submitted related to this as well as legal opinion, which I trust you will read and research.
2. This bill does NOT protect consumers in any way, despite it's intent. This is a tax collection bill disguised as a consumer protection bill.
3. This bill provides an unfair advantage to licensed rental management companies who, if they are required to run our businesses for us, will have all the necessary information about our tenants to rent them whatever they want. They have NO obligation to rent my property just because they are legally collecting rents for me.
4. There is absolutely NO evidence to prove that licensed agents will be more timely or more honest in paying TAT or GE. I have paid my taxes religiously and would NOT trust someone else to do so, especially, when under this bill I could be fined if they don't.
5. The tax exemption includes reference to a form 990, which is a form for NON-profits. Despite the fact that this is the first year I have made a \$2,000 profit, I cannot claim to be a non-profit. That would be illegal.
6. The tax exemption clause also required the non-licensed person on-island person who is managing in the owner's absence to have their name and phone number posted on ALL ADVERTISING. Should my property manager then be fielding calls for rentals, for information on which whale watch to go on, which rental car company to go to, as I do? This is an unacceptable violation of their privacy. No one would agree to do this, thus, bringing us back to the original bill, without this amendment. The tax exemption clause was added to appease the very many of us, tax abiding non-resident owners. This addition to it nullifies that clause.
7. There was testimony from 706 people in opposition. A petition against HB1707 secured 750 signatures in two days (not from the same people). Another petition against SB2089 secured 160 signatures in two days. It is my belief that given the time to notify ALL of the non-resident owners of vacation rentals in the state, that

your offices would be flooded with calls, emails, faxes and testimony. The speed at which this is being passed indicates a complete lack of concern over the effect this will have on people who have been committed to promoting and supporting tourism (your primary industry) in Hawaii for years.

I thank you for your time and service and pray that you will defer very poorly conceived bill.

Sincerely,

Marsha Vaughn

Condo Owner, Kihei, HI

**MARSHA VAUGHN, LSCW**

2513 San Mateo Street  
Richmond, CA 94804  
(510) 526-1994  
(510) 206-4619 cell

Committee on Tourism  
Hawaii State Representatives  
March 8, 2012

Re: SB 2089- SD1

Dear Committee Members,

I am writing again because I forgot the main reason I oppose this bill as it reduces me to tears everytime I write about it. As written, this bill would cause me to lose my condo and eventual retirement home. I could not afford to hire a licensed person to run my business, nor could I force my current non-licensed property manager to agree to have their phone number and name published on all the advertising I do. I would have to either sell or find a long term rental, which would prohibit me from visiting Maui and thus defeat the purpose of owning the condo in the first place.

I am submitting an amendment along with this because if this section were amended it is likely I could keep my condo. I would suggest amending the clause related to non-licensed property managers to read that we must provide their name and phone number annually (or more often, if preferable) to the Consumer Protection agency of the county in which our property is located. This would put the consumer protection in the right hands. It would also allow those of us who are paying our taxes and being supportive and contributive business owners in Hawaii to NOT have any undue burden placed upon us.

I hope you will consider amending this bill.

I thank you for your time and service.

Sincerely,

Marsha Vaughn

Condo Owner, Kihei, HI

From: Bettie [mailto:kokuat@hawaii.rr.com]  
Sent: Friday, March 09, 2012 8:48 PM  
To: TOUTestimony  
Subject: testing

Please vote no for this bill 2089 SD1.. this will hurt the tourist industry by having to go through a Real Estate agent..We will have to raise our prices. Lots of people rely on rentals by private owners..Please vote NO Mahalo June Ventura

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Mark Wadlow

Organization: Individual

E-mail: [maui-condo@embarqmail.com](mailto:maui-condo@embarqmail.com)

Submitted on: 3/9/2012

Comments:

We are opposed to SB 2089 passing, this bill needs to be defeated! This measure is discriminatory to off-islanders to Maui. No value to our tourist guests, as this bill will cause prices to increase to rental rates to tourists, and owners in turn will pay more for the same service. Makes no sense to us. Please defeat SB 2089. Mahalo, Cindi & Mark Wadlow



-----Original Message-----

From: Chick Warner [mailto:cwarnn@comcast.net]

Sent: Friday, March 09, 2012 12:20 PM

To: TOUTestimony

Subject: Against 2089 SD!

I oppose 2089 because it is ill conceived and creates more problems than it resolves.

Since there is no reasonable short term vacation permitting the net effect would be to dramatically reduce the TAT taxes collected for the state.

Time to wake up to economic reality Hawaii! Don't cut our own throat with ridiculous short term rental legislation.

Give us some reasonable permitting legislation and stop screwing around with silly bills like this.

A Laie resident.

Aloha, please oppose SB 2089 coming before your committee this week. It is UNNECESSARY legislation that will impose a burden on homeowners who rent out their property for vacation use. It is another example of UNNEEDED GOVERNMENT INTERFERENCE. My husband and I have owned a condo in Wailea for 12 years and always PAID OUR TAXES. We rent out our condo directly to guests with no problems. Consumers like this arrangement as they can deal directly with the owner and make all their arrangements online or by phone. We all benefit from lower costs and that enhances tourism. THIS BILL WOULD HURT TOURISM in Hawaii and REDUCE GOVERNMENT TAX REVENUES by making vacation rentals more expensive if owners have to use property managers. These middlemen just add another cost for everyone involved. PLEASE VOTE NO TO SB 2089.

Regards,

Kathi and Joseph Wahed  
3300 Wailea Alanui, #20B  
Wailea, HI 9753

and

102 Brookline Street  
Moraga, CA 94556  
(808) 874-6227 or (925) 631-1231  
Cell (925) 348-9934

Jackie & Greg Walker  
PO BOX 7434  
Porter Ranch, CA. 91327

Hawaii Senators

March 5, 2012

Re: SB 2089 SD1

Dear Sirs and Madams,

We support the State of Hawaii's need to enforce tax compliance. However; we request that you OPPOSE the passage of SB2089 SD1 and vote, <sup>3</sup>NO<sup>2</sup> to allow for further discussion and analysis.

We are very concerned about SB 2089. My husband and I are law-abiding, tax-paying off Island residents are very concerned that we may lose what we have worked so hard for. We rent out our condo on a short-term basis. We handle all of the funds, collect the GET and TAT for Hawaii and pay them to the state.

We provide excellent service to over 45 families per year. The economy of Hawaii is reliant upon tourists. The housekeeper that we employ has over 40 units that she cleans for. She would be affected in that many of the owners she cleans for would have to sell. She employs 12 workers. She would not be able to keep them employed, and they would be laid off. She would lose her own home due to the decrease in income. Many local businesses would be affected from having fewer customers.

If I had to pay a management company or Realtor to manage my HOME, we would be unable to do so. We could not afford it. We work very hard to break even and make just a little bit of money. We report all of our rental income to the State.

Some dishonest owners may not report. They do need to be held responsible, but not at the expense of the honest owners. Are they more likely to comply?  
No. quite the opposite. They will continue to not comply.

Many owners in my complex have stated that they would be forced to sell.  
Who would want to buy these condos? They would not be appealing to anyone off-Island for the very reason that the original owner would have to sell.  
Having to pay a large commission or fee to a Realtor or Management Company would result in even more short-sales and foreclosures than are already flooding the market.

Another concern is\$Why is there an assumption that Off-Island owners are less likely to pay their taxes? Is there not a concern about those living On-Island? It doesn't make any sense. This is discriminating against Off-Island owners.

In addition, I am not comfortable having someone I don't know handle my money and pay MY taxes. What happens if the accounting is incorrect? What if it is not paid on time? I would be liable for errors, and penalties. How do I know and prove that I even received any income that month? Who regulates the Realtors? Where is the personal attention to the guests? Not everyone that travels to Hawaii wants to stay in a Hotel. They appreciate the options and personalized service that we provide.

There is no denying that Hawaii depends on the tourists. To cover the added expenses, I would have to raise my rates, which would result in fewer bookings, and fewer tourists on the Islands to spend money with the local merchants. A horrible recession would occur. We have owned since 2006. In 2008, the economy started to decline, but we still managed. It seemed as though the numbers had been improving, and now this? I don't get it.

This is a monopoly situation for the Realtors/Management Companies. Where is MY opportunity for free trade?

Where are the resources to enforce this? My housekeeper has 40 owners that she works for. If just those 40 owners had to employ a Management company, where are those employees? Am I supposed to trust my money and reputation to someone that is not even familiar with my home? I am so upset about this. If we are to estimate that 40 owners have at least 20 families per year, that is 800 bookings, phone calls, e-mails, mailings. And that does not count the inquiries that need to be responded to, and end up renting elsewhere. Who will handle that volume? There seems to be a potential for embezzlement from dishonest workers of the Management Company.<sup>2</sup> I need to handle my money, not someone 2,500 miles away.

I have worked very hard to become a property owner. I don't want to lose it all.

In regards to having to provide the name of an On-Island contact, I already do that, because I have understood from the beginning that that is required and important. New owners are informed as well. Why would I need to provide that in my advertisement? My contact does not have the time or opportunity to respond to EVERY SINGLE INQUIRY.

Hawaii is the Aloha State. Where is the Aloha? This would increase of sense of impersonal attention.

Please reconsider the need for a Management Company or Realtor to manage the rentals. We thank you for your time and consideration.

Aloha,  
Jackie & Greg Walker  
818-425-6064

Re: 2089 SD1, Tourism Committee, March 12, 9:30 am

Oppose 2089

I am writing to oppose bill SB 2089.

My husband and I purchased our condo on Maui 27 years ago. We rented a condo on Maui from an owner that rented out their own condo and fell in love with Maui. We have rented out our condo ourselves for all these years and have always collected and paid the excise tax and transit taxes. We have an on island agent, who we have had for 27 years, who sees to our maintenance and maid services and does a great job. We have guests that come back time and time again because our condo is in great shape and there is never a problem. We visit Maui 2 to 3 months out of the year and only have been able to do this because we rent our own condo. We didn't purchase this condo for the income, we are lucky to break even every month, even after all these years. We purchased this condo because we have been able to rent it ourselves and visit Maui when we can. If this bill passes we will not be able pay our Resort maintenance fees, mortgage, property tax and be able to stay in our 2nd home in Maui, we can't afford to keep it, we will have to put it up for sale, as will thousands of other owners.

This is a very bad bill for Maui and all of Hawaii. Tourism will go down, rental rates will go up , and think of all the small business that count on vacation rentals for their business. There will be so many owners who can not afford to own anymore and will cause a glut of properties for sale bringing property values down and foreclosures more than the recession has.

We have tried management companies over the years and they just can't give each condo individual attention and rent our condo like we can on our own, we just can not afford them.

This bill discriminates against off island owners.

Please do not take our property owners rights away, say no to this bill.

Mahalo

Mike & Jeanette Whalen  
1740 Cienega Road  
Hollister, Ca. 95023  
831-637-3568

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Stan White

Organization: Individual

E-mail: Jake white4@yahoo.com

Submitted on: 3/10/2012

Comments:

I am very much opposed to SB2089. We have rented condos by way of larger complex units in the past and our experiences in doing so pale in comparison to the friendly, personable and excellent experiences when we've dealt strictly with the owners. They have been able to provide a level of service that I feel the larger management groups could NEVER attain.

February 14, 2012

RE: OPPOSE SB2089 SD1 Amended, Relating To Transient Accommodations

Aloha Tourism Committee,

I STRONGLY OPPOSE the passage of SB-2089 SD1 Amended.

I am a non-resident owner of two rental properties in Maui. I have a valid business license issued by the State of Hawaii, pay property tax at the transient rental rate, file periodic and annual reconciliation TA & GE returns as required by Hawaiian tax code and file my annual N-15 non-resident State Income Tax return.

I am a bit offended by the allegation by Hawaiian Rental Property Managers that non-resident rental owners of properties in Hawaii are tax cheats and believe this is a gross exaggeration of reality, serving their special interest.

Reading testimony from Rental Property Managers begs the question; are they really concerned about the tax that Hawaii is allegedly losing, or is it just possible that it's their own monetary loss they're actually concerned about. It should be clear that competition from VRBO and HomeAway hurts their ability to charge exorbitant fees for property management. I believe this to be the real reason disguised as a tax cheat issue with its purported resulting revenue loss to the State of Hawaii. Recent audits of TA and GE returns by the State of Hawaii simply do not bear out these unfounded allegations by Hawaiian Rental Property Managers.

Rental marketing and management is changing as a result of the Internet and it's a very healthy change for the State of Hawaii and business enterprise in general. The Internet truly represents a new rental channel that didn't exist prior to the likes of VRBO, HomeAway and others. We offer a lower cost alternative than Hawaiian Rental Property Managers and many tourists appreciate the price difference.

The high volume of rentals we experience in this depressed economy booked directly from the Internet speaks for itself. This is very good for Hawaii. Do you really wish to destroy this source of revenue? Since it's a direct marketing channel to the consumer (bypassing the much of the added cost charged by the Rental Property Manager), it's a less expensive option for many tourists who would otherwise NOT visit the Islands due to tight personal budgets.

To be a tourist in Hawaii is an expensive proposition. They are hit with TA & GE (a total of 13.4%! ), Parking Fees, Resort Fees, Car Rental Fees and daily taxes, etc, etc ... altogether it really adds up and tourists are not bottomless pits of wealth. If costs get too high, they will stop coming to the islands. Is it any wonder that many renters have turned to the Internet for reduced rental rates? Many of the tourists we talk to are extremely pleased with the alternative we offer as direct marketers of our own properties. They know they are saving enough money to afford their Hawaiian vacation.

We are meticulous in our rental management as evidenced by the many positive experience comments posted on our web site. People come back to Maui and rent from us time and time again because of that wonderful and more affordable experience ... and that should be very good news for Hawaii as well. This new Internet marketing channel definitely threatens the Rental Property Management status quo, but as in any free market system, those who want to survive must change with the changing times. Legislating their success is simply not appropriate.

To mandate doing things as they have been in the rental market for many years by imposing inappropriate legislation will most certainly lead to tourism stagnation and loss of revenue for the State of Hawaii. I believe the better choice is to let the free market system work to the benefit of the State and find alternative ways to ensure tax collections.

One approach is to EDUCATE by creating links to Hawaiian tax and rental laws directly on the Hawaii Government web site and that of



Internet marketing companies such as VRBO and HomeAway that service the Hawaiian market. It would be in their best interest to do this. Creative? Yes, but why not try this unique approach that is of minimal cost to implement, yet would reach so many current and potential non-resident owners.

Another alternative is to require web sites and rental contracts to contain Hawaii Tax ID numbers as proof of compliance with tax laws.

My final comment is that if this legislation is passed into law, many of us non-resident owners will be forced to sell our Hawaiian property since the added cost to hire a Hawaiian Rental Property Manager at a cost as much as 40% of the rental rate would make it all but impossible to pay Property Taxes, HOA Fees and Debt Service on Loans just to come close to profitability. As we all know, spending more than you make is not a formula for a successful business. It's already very expensive to be a non-resident homeowner in Hawaii. Is it really in everyone's best interest to make it more difficult and expensive to own and rent in Hawaii? Does the State of Hawaii really want to lose the benefit of these other sources of revenue by passing this legislation?

In summary, please DO NOT pass the SB2089 SD1 Amended bill. Consider the unintended negative consequences passage will have on non-resident homeowners, home sales, the future of tourism and a reduction in Hawaiian tax collection. Passage of these bills will greatly restrict competition in the Hawaiian rental market to the benefit of a small special interest group. Is it really best for Hawaii to allow the restriction of competition in the Rental Property Market these bills will enable? Is it ethical or even legal to discriminate against non-resident homeowners this way? There are plenty of Tax collection laws in on the books for tax cheats in all sectors of tax collection, is it fair to single out this sector with added burden to owners?.

Please consider the following:

(1) I support all rental property owners paying taxes, but I do not

support forcing non-residents to use a local Hawaiian Property Manager.

- (2) This law has the appearance of being discriminatory against non-residents of the State of Hawaii, which is; by it's very nature, unconstitutional.
- (3) The Senate ignored more than 700 opposing pieces of testimony and passed a bill that is hard to understand and leaves many more unanswered questions.
- (4) Don't you think this bill will do more to hurt tourism than help it?
- (5) Does Hawaii really want to be known as an unfriendly State to out-of-state investors, owners and visitors?

Thank you for your consideration.

Best Regards,

*Michael Wilde*

Michael Wilde  
HK Property Management

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: D Williams

Organization: Individual

E-mail: [dajetp@gmail.com](mailto:dajetp@gmail.com)

Submitted on: 3/9/2012

Comments:

I live in Canada. Four years ago our family of six visited your state for a six week stay. We found accomodation through a non resident owner from California. We enjoyed the island, but the ease of dealing directly with the owner has lead us to return on two further occasions (5 weeks and six weeks) with another visit (4 weeks) scheduled later this year. We have heard many stories during our visits about vacations through property managers going awry. We have always paid the (very high)state taxes on the accomodations, and have spent money on groceries, activities, gas, even haircuts during our stays. All resulting in increased tax revenues to the state. The high cost of travelling to your state along with the added cost of a property manager will no doubt result in us looking to vacation elsewhere.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Colette Wolszon

Organization: Individual

E-mail: [colettewolszon@hotmail.com](mailto:colettewolszon@hotmail.com)

Submitted on: 3/9/2012

Comments:

Support paying tax - but are opposed to inserting property managers or realtors into the equation

Law is unconstitutional as it targets non-residents instead of residents

Exemption needs to be spelled out and explained fully in any proposed legislation

Tourism is coming back, this could have devastating effect on it

Real estate is coming back this bill will make it so owners cannot afford to keep their properties and would have to sell, this would be devastating to all of the islands.

Most owners due pay their taxes and the ones that due should not be penalized.

This bill SHOULD NOT BE PASSED!

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Norb Wolszon

Organization: Individual

E-mail: [idivedeep@aol.com](mailto:idivedeep@aol.com)

Submitted on: 3/9/2012

Comments:

I am asking you to oppose this bill. There is no evidence to show resident owners are any more compliant than non resident owners when it comes to paying taxes. Your latest studies show we are compliant with the laws. Please do not create an unfair advantage. I would ask that you educate and work with vacation rental owners. We do pay our taxes and are happy to do so. People who come to visit Hawaii should have the choice to rent from whom they choose and not be forced to deal with a realtor or managing agent that can not offer the same value or personal touch that an owner can. Most guests will not return to the islands if forced to pay 25-50% more for accomodations. This will kill tourism to the islands and create a huge reduction in the taxes that tourists generate. They spend money while they are here. That keeps people employed and then they to have money to spend. I hope you take the time to think about the actual losses in tax revenue SB 2089 will create. Forcing hundreds if not thousands of owners to have to sell or foreclose their property will devastate the already shaky housing market in Hawaii. There has also been testimony submitted that this bill will not stand up to a legal challenge. Let's work together to solve the perceived non payment of taxes through direct dialouge and education. We should not have to display local contct info in our adds. A license # or tax compliant certificate # is one thing, but forcing us to promote other businesses and confuse potential clients at our expense just doesn't make any sense. I ask how you think any of these laws will make a non tax compliant owner all of a sudden become compliant? Find a way to enforce the laws that exist. Don't put the burden of more expense on those of us who already are compliant. These laws will let the cheaters continue to cheat while forcing most if not all of the compliant non resident owners out of businees. That's bad for us and terrible for Hawaii. Again I ask you to oppose for the good of Hawaiian tourism. I hate to think of the devastating effect this will have if passed.

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: Shin Wong

Organization: Individual

E-mail: [sh1ny@hotmail.com](mailto:sh1ny@hotmail.com)

Submitted on: 3/9/2012

Comments:

During my visit to Maui, I stayed for one week at a condo managed directly by the owner. By booking directly with the owner, I was offered a great condo, great service for a very reasonable price.

When comparing other condos that were managed by larger companies, I found that many times the experience you would receive with the stay would vary vastly. For example, it was not clear what sort of room you would get, and there were many negative reviews found on travel review sites.

So due to my positive experience with renting directly from an owner, I would oppose this bill.

Dear Tourism Committee

**Please do not pass 2089 SD1!!!**

**It will be a terrible burden for us as condo owners.** We are suffering a personal economic down turn, and we need as much income as possible in order to make our extremely high mortgage payment. Because we are self-employed and our income has gone down drastically in the last year and a half, we are facing foreclosure on our home. Only the rent from the condo is keeping that afloat.

Having to pay a middleman to collect our rents would create a great hardship for us. We need to keep rents reasonable in order to attract more tourists. **We have always paid the taxes we owe. Passing this bill will not weed out the people who don't; it will just make it harder for the people who do.**

Please don't pass this bill! Please!

Thank you  
Juliana Wynberg  
4011 Nevin Ave.  
Richmond, Ca.  
94805

510-917-7247

Testimony for TOU 3/12/2012 9:30:00 AM SB2089

Conference room: 312

Testifier position: Oppose

Testifier will be present: No

Submitted by: June Wood

Organization: Individual

E-mail: [amauiivacation@yahoo.com](mailto:amauiivacation@yahoo.com)

Submitted on: 3/9/2012

Comments:

This is really going to hurt Hawaii and owners of condos.



I oppose SB2089 SD1 Amended.

Reasons:

Support paying tax – but are opposed to inserting property managers or realtors into the equation

Law is unconstitutional as it targets non-residents instead of residents

Exemption needs to be spelled out and explained fully in any proposed legislation

Tourism is coming back, this could have devastating effect on it

Real estate is coming back, this will make it so owners cannot afford to keep their properties and would have to sell – flooding the market

Property managers are the only ones to benefit from this law, everyone else loses!

Senate ignored 700 pieces of opposing testimony and passed this with an amendment that no-one can understand

I recommend **enforcing Hawaii's existing tax laws**. Next it will be that Residents of Hawaii also have to use Relators/Property Managers, which I am totally opposed to.

My best,

Kathy Young

8089650922

Rt 2 box 3945

14-4710 Luana PI,

Pahoa, Hawaii 96778

**From:** Ali Zor [mailto:[alizer3@yahoo.com](mailto:alizer3@yahoo.com)]

**Sent:** Friday, March 09, 2012 7:26 PM

**To:** TOUtestimony

**Subject:** testing

Dear Tourism Committe,

I am writing you this letter to urge you to please not pass bill SB2089 SD1.

I am a regular visitor to the state of Hawaii. Most of my family lives there and I am able to visit every summer and stay for an extended period of time. I feel that this bill is not a fair one as it forces me to have to rent property from a management company. I am comfortable and most happy renting from owners that I know. I like the personal attention that I receive dealing directly through the owner rather than some random company or middleman that is totally detached from situation. Who better to rent and represent their property than the owner? I am certain that this bill will also cause the owners to have to increase their rates, thereby increasing my rate. I feel that passing such a law would be hurtful to tourism in the state of Hawaii and unfair to owners as well. I hope that you will please reconsider and NOT pass this law. Thank you for your time and consideration.

Alison Zor

**From:** Jill Zor [mailto:jzorviolinist@yahoo.com]  
**Sent:** Saturday, March 10, 2012 12:07 AM  
**To:** TOUtestimony  
**Subject:**

Dear Tourism Committe, I am writing you this letter to urge you to please not pass bill SB2089 SD1. I am a regular visitor to the state of Hawaii. I feel that this bill is not a fair one as it forces me to have to rent property from a management company rather than a private owner. I am comfortable and most happy renting from owners that I know. I like the personal attention that I receive dealing directly through the owner rather than some random company or middleman that is totally detached from situation. Who better to rent and represent their property than the owner? I am certain that this bill will also cause the owners to have to increase their rates, thereby increasing my rate. I feel that passing such a law would be hurtful to tourism in the state of Hawaii and unfair to owners as well. It can be bad for the economy of the United States and Hawaii. I hope that you will please reconsider and NOT pass this law. This law is unfair to constituents and favors companies thus creating a monopoly out of hotels and rentals. Thank you for your time and consideration.

-Jill Zor